

SCHEDULES

SIXTH SCHEDULE

TRANSITIONAL PROVISIONS

PART III

PROVISIONS RELATING TO PARTS IV AND V

Patients other than transferred patients and short-period patients

- 7 (1) This paragraph applies to patients who immediately before the commencement of this Act were patients of any of the following classes, that is to say—
- (a) patients liable to be detained in a hospital or other place, or as single patients, in pursuance of a reception order under section six or section twelve of the Lunacy Act, 1890, or a summary reception order under section sixteen of that Act or an order having the like effect as a summary reception order (including patients who were treated by virtue of any enactment as liable to be so detained or in whose case a summary reception order was so treated as having been made);
 - (b) temporary patients liable to be so detained under section five of the Mental Treatment Act, 1930 ;
 - (c) patients liable to be so detained or subject to guardianship by virtue of section three, section six, subsection (1) of section eight, section sixteen or subsection (3) of section sixty-seven of the Mental Deficiency Act, 1913, or, being patients whose sentence or other period of detention ordered by the court had expired before the commencement of this Act, by virtue of section nine of that Act.
- (2) A patient to whom this paragraph applies shall, notwithstanding the repeal or exclusion by this Act of any enactment by virtue of which he was, or was treated as, liable to be so detained or subject to guardianship, continue to be liable to be detained in any hospital or other place in which he might have been detained immediately before the commencement of this Act or, as the case may be, subject to guardianship until the expiration of the period of six months beginning with the commencement of this Act (in this Part of this Schedule referred to as the initial period).
- (3) During the initial period the responsible medical officer shall record with respect to each such patient as aforesaid for whose treatment he is responsible his opinion whether the patient is suffering from mental illness, severe subnormality, psychopathic disorder or subnormality and whether his mental disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment, or his retention under guardianship.
- 8 (1) In relation to any patient who by virtue of the last foregoing paragraph is liable to be detained in a hospital or subject to guardianship during the initial period, Part IV of

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this Act shall, subject to the exceptions and modifications specified in the following provisions of this paragraph, apply during that period as if he had been admitted to the hospital in pursuance of an application for admission for treatment under the said Part IV or had been received into guardianship in pursuance of a guardianship application thereunder, and the other provisions of this Act shall apply in relation to him accordingly.

- (2) Section thirty-eight of this Act shall not apply in relation to the patient until the form or forms of mental disorder from which, in the opinion of the responsible medical officer, the patient is suffering have been recorded under the last foregoing paragraph and, on that being done, Part IV of this Act shall have effect as if the application had specified as the form or forms of mental disorder from which he is suffering the form or forms so recorded.
- (3) If the patient is also a patient to whom paragraph 21 of this Schedule applies, sections thirty-nine and forty of this Act shall apply in relation to him subject to the modifications mentioned in that paragraph, and if he is not, but no form or forms of mental disorder have been recorded in his case under the last foregoing paragraph, the said section forty shall apply in relation to him as if for paragraphs (a) and (b) of subsection (3) of that section there were substituted the following sub-paragraphs:—
 - “(a) in the case of a patient mentioned in sub-paragraph (1) (c) of paragraph 7 of the Sixth Schedule to this Act, six months ;
 - (b) in the case of any other patient to whom that paragraph applies, twenty-eight days.”
- (4) Sections forty-three to forty-five of this Act shall not apply in relation to the patient except in so far as provisions of the said section forty-three are applied by the following provisions of this Part of this Schedule.
- (5) If the patient was immediately before the commencement of this Act liable to be detained by virtue of section six, subsection (1) of section eight or section nine of the Mental Deficiency Act, 1913, the power of discharging him under section forty-seven of this Act shall not be exercisable by the nearest relative.
- (6) In its application to a patient who was immediately before the commencement of this Act in the custody of a relative or friend under section fifty-seven of the Lunacy Act, 1890, Part IV of this Act shall have effect as if—
 - (a) for references (except in section forty-seven of this Act) to the managers of the hospital in which the patient is detained there were substituted references to the person having the custody of the patient; and
 - (b) for references to those managers in the said section forty-seven there were substituted references to the managers of the hospital from which he was transferred to the custody of the relative or friend.
- (7) In its application to any such patient who was immediately before the commencement of this Act liable to be detained as a single patient under the Lunacy and Mental Treatment Acts, 1890 to 1930, Part IV of this Act shall have effect as if—
 - (a) for references (except in section forty-seven of this Act) to the managers of the hospital in which the patient was detained there were substituted references to the person having charge of the patient; and
 - (b) the references in the said section forty-seven to those managers were omitted.

- 9 (1) A patient to whom paragraph 7 of this Schedule applies shall unless previously discharged continue to be liable to be detained in a hospital or, as the case may be, subject to guardianship after the expiration of the initial period if—
- (a) he satisfies the conditions specified in sub-paragraph (2) or sub-paragraph (3) of this paragraph ; and
 - (b) the authority for his detention or guardianship is renewed under the following provisions of this Part of this Schedule before the expiration of the initial period or his current period of treatment would expire after the expiration of the initial period.
- (2) Any such patient shall be so liable or subject if it is recorded under the said paragraph 7 that in the opinion of the responsible medical officer he is suffering from mental illness or severe sub-normality and his mental disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment or, as the case may be, his retention under guardianship.
- (3) Any such patient shall be so liable or subject if it is so recorded that in the opinion of the responsible medical officer he is suffering from subnormality or psychopathic disorder, but not from mental illness or severe subnormality, and his mental disorder is of such a nature or degree as aforesaid and either—
- (a) he was immediately before the commencement of this Act liable to be detained or subject to guardianship in pursuance of an order under subsection (1) of section eight or section nine of the Mental Deficiency Act, 1913, or by virtue of an order made, or having effect as if made, under section thirty of the Magistrates' Courts Act, 1952 ; or
 - (b) he had not attained the age of twenty-one years when he was first detained or placed under guardianship and will not attain the age of twenty-five years before the expiration of the initial period ; or
 - (c) in the case of any other patient liable to be detained in a hospital, the responsible medical officer before the expiration of the initial period records his opinion under the following provisions of this Part of this Schedule that the patient is unfit for discharge.
- 10 (1) The period for which a patient may by virtue of the last foregoing paragraph be detained or kept under guardianship after the expiration of the initial period, without renewal of the authority for his detention or guardianship, shall be the remainder of his current period of treatment.
- (2) Where the current period of treatment of a patient who may be detained or kept as aforesaid would continue after the expiration of the period of two years beginning with the commencement of this Act, the patient may between the expiration of the said period of two years and the expiration of the current period of treatment apply to a Mental Health Review Tribunal.
- 11 (1) Authority for the detention or guardianship of a patient to whom paragraph 7 of this Schedule applies may on the expiration of the relevant period, unless the patient has previously been discharged, be renewed for whichever of the following periods is applicable, that is to say—
- (a) where the period for which he has, at the expiration of the relevant period, already been detained or subject to guardianship on account of any description of mental disorder (whether before or after the appointed day) is not more than one year, a further period of one year;
 - (b) where the period for which he has already been so detained or subject is more than one year, a further period of two years.

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- (2) Subsections (3) to (6) of section forty-three 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 subsection (2) of that section.
- (3) In this paragraph " the relevant period " means, in relation to a patient, the patient's current period of treatment or, if that period expires during the initial period, the initial period or any period subsequent to the said period for which authority for the detention or guardianship of the patient has previously been renewed under this paragraph.
- 12 (1) In relation to any patient who by virtue of paragraph 9 of this Schedule is liable to be detained in a hospital or subject to guardianship after the expiration of the initial period, Part IV of this Act shall, subject to the exceptions and modifications specified in the following provisions of this paragraph, apply as if he had been admitted to the hospital in pursuance of an application for admission for treatment under the said Part IV or had been received into guardianship in pursuance of a guardianship application thereunder and had been so admitted or received as a patient suffering from the form or forms of mental disorder recorded under paragraph 7 of this Schedule or, if a different form or forms have been specified in a report under section thirty-eight of this Act as applied by that paragraph, the form or forms so specified, and the other provisions of this Act shall apply to him accordingly.
- (2) Section forty-three of this Act shall not apply in relation to the patient, but the provisions of paragraph 11 of this Schedule shall apply instead.
- (3) Section forty-four of this Act shall not apply in relation to any such patient as is mentioned in sub-paragraph (3) of paragraph 9 of this Schedule, but any such patient as is mentioned in paragraph (b) of that sub-paragraph shall cease to be liable to be detained on attaining the age of twenty-five 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 Part of this Schedule that the patient is unfit for discharge.
- (4) If the patient was immediately before the commencement of this Act liable to be detained by virtue of section six, subsection (1) of section eight or section nine of the Mental Deficiency Act, 1913, the power of discharging him under section forty-seven of this Act shall not be exercisable by his nearest relative, but his nearest relative may make an application in respect of him to a Mental Health Review Tribunal, during the period of twelve months beginning with the expiration of the initial period and in any subsequent period of twelve months.
- 13 (1) The responsible medical officer may record for the purposes of paragraph (c) of sub-paragraph (3) of paragraph 9 of this Part of this Schedule or sub-paragraph (3) of paragraph 12 thereof 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;
- and where the responsible medical officer records his opinion as aforesaid he shall also record the grounds for his opinion.

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- (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 twenty-eight days beginning with the date on which he is so informed, apply to a Mental Health Review Tribunal.
- (3) On any application under the last foregoing sub-paragraph the Tribunal shall, if satisfied that none of the conditions set out in paragraphs (a) and (b) of sub-paragraph (1) of this paragraph are fulfilled, direct that the patient be discharged, and subsection (1) of section one hundred and twenty-three of this Act shall have effect in relation to the application as if paragraph (b) of that subsection were omitted.
- 14 Any person who immediately before the commencement of this Act was the guardian of any such patient as is mentioned in sub-paragraph (1) (c) of paragraph 7 of this Schedule 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 IV of this Act accepted on that person's behalf by the relevant local authority.

Transferred patients

- 15 (1) This paragraph applies to patients who immediately before the commencement of this Act were liable to be detained in a hospital or other place as Broadmoor patients or, not being Broadmoor patients, as patients of any of the following classes, that is to say—
- (a) patients liable to be detained by virtue of section nine of the Mental Deficiency Act, 1913, not being patients whose sentence or other period of detention ordered by the court had expired before the commencement of this Act;
 - (b) patients liable to be detained by virtue of subsection (4) of section eight of the said Act of 1913 ;
 - (c) patients liable to be detained by virtue of subsection (3) of section sixty-three or subsection (3) of section sixty-four of the Criminal Justice Act, 1948, or subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949 ; or
 - (d) patients liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884 ;
- and any patient to whom this paragraph applies is in this Part of this Schedule referred to as a transferred patient.
- (2) A transferred patient who immediately before the commencement of this Act was liable to be detained in a hospital as being or having been required to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known (including a patient of that or a similar description liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884, but not including a patient transferred to England and Wales from Scotland, the Channel Islands or the Isle of Man) shall be treated for the purposes of this Act as if he were liable to be detained in a hospital in pursuance of a direction under section seventy-one of this Act.
- (3) A transferred patient who immediately before the commencement of this Act was subject to a sentence of imprisonment within the meaning of section seventy-two

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of this Act (including a patient liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884, who does not fall within the last foregoing sub-paragraph) shall be treated for the purposes of this Act as if he were liable to be detained in a hospital by virtue of a transfer direction under the said section seventy-two and as if a direction restricting his discharge had been given under section seventy-four of this Act.

- (4) Section eighty-four of this Act shall apply to a transferred patient who having been a state mental patient in Scotland was immediately before the commencement of this Act liable to be detained in a hospital in England and Wales by virtue of subsection (3) of section sixty-three of the Criminal Justice Act, 1948, or subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949, as if he had been removed to such a hospital from Scotland in pursuance of an order under the said subsection (2); and where he is treated "by virtue of the said section eighty-four as if he had been removed to a hospital in pursuance of a transfer direction, he shall also be treated as if a direction restricting his discharge had been given as aforesaid.
- (5) Section eighty-nine of this Act shall apply to a transferred patient who having been ordered by a court in any of the Channel Islands or in the Isle of Man to be detained during Her Majesty's pleasure was removed to, and was immediately before the commencement of this Act liable to be detained in, a hospital in England and Wales as if he had been removed to such a hospital under that section.
- (6) Any person to whom this paragraph applies and who does not fall within any of the four last foregoing sub-paragraphs 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 seventy-three of this Act and as if a direction restricting his discharge had been given under section seventy-four 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 seventy-three.
- 16 (1) References in the last foregoing paragraph to a patient who immediately before the appointed day was liable to be detained as a Broadmoor patient include references to a Broadmoor patient conditionally discharged by the Secretary of State before the commencement of this Act under section five of the Criminal Lunatics Act, 1884, and—
- (a) any such patient shall be treated as if he had been conditionally discharged by the Secretary of State under section sixty-six of this Act; and
 - (b) any direction given before the commencement of this Act under the said section five to take any such patient into custody and convey him to a hospital shall be deemed to have been given under the said section sixty-six.
- (2) Sections thirty-nine and forty of this Act, in their application to a transferred patient, who is also a patient to whom paragraph 21 of this Schedule applies shall have effect subject to the modifications mentioned in that paragraph.
- 17 Upon a direction restricting the discharge of a transferred patient ceasing to have effect, the responsible medical officer shall record his opinion whether the patient is suffering from mental illness, severe subnormality, psychopathic disorder or subnormality, 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 so recorded.

Short-period patients

- 18 A person who immediately before the commencement of this Act was detained under section eleven of the Lunacy Act, 1890, may continue to be detained until the expiration of the period of seven days mentioned in that section or, if at the commencement of this Act that period had expired and a petition for a reception order was pending, until the expiration of the period of twenty-eight days beginning with the commencement of this Act 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 but for the repeal of that section.
- 19 A person who immediately before the commencement of this Act was detained by virtue of section twenty, section twenty-one or section twenty-one A of the Lunacy Act, 1890, may continue to be detained until the expiration of his current period of treatment 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 but for the repeal of that section.
- 20 A person who immediately before the commencement of this Act—
- (a) was detained by virtue of subsection (3) of section eight of the Mental Deficiency Act, 1913, in an institution or place of safety within the meaning of that Act; or
 - (b) was detained under section fifteen of that Act in such a place of safety ;
- may continue to be detained as aforesaid until the expiration of the period of twenty-eight days beginning with the commencement of this Act or until he becomes liable to be detained or subject to guardianship under this Act, whichever occurs first.

Patients on leave or absent without leave

- 21 (1) Sections thirty-nine and forty of this Act shall apply to a patient to whom paragraph 7 of this Schedule applies or a transferred patient who immediately before the commencement of this Act was absent on trial or leave or in pursuance of a licence under any enactment repealed by this Act or any rules or regulations thereunder, as if he had been granted leave of absence under the said section thirty-nine at the commencement of this Act for an indefinite period, and accordingly a patient to whom paragraph 7 of this Schedule applies may be recalled under the said section thirty-nine at any time within the initial period and a transferred patient may be so recalled at any time within or after the initial period.
- (2) Section forty of this Act shall, subject to the next following sub-paragraph, apply to a patient to whom paragraph 7 of this Schedule applies, a transferred patient or a short-period patient who immediately before the commencement of this Act was absent otherwise than as mentioned in the foregoing sub-paragraph from the hospital or other place where he was required to be by virtue of any such enactment, rules or regulations as if he had absented himself without leave or without permission from the hospital or other place as mentioned in subsection (1) of that section or, as the case may be, he were absent without his guardian's permission as mentioned in subsection (2) of that section.
- (3) The period within which any patient to whom paragraph 7 of this Schedule applies or a short-period patient may be retaken and returned under the said section forty shall be whichever of the following periods is applicable instead of that specified in subsection (3) of that section, that is to say—

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- (a) in the case of a patient liable to be detained by virtue of any of the provisions of the Mental Deficiency Act, 1913 (not being a transferred patient), the initial period ;
- (b) in the case of any other patient to whom paragraph 7 of this Schedule applies or any other short-period patient, the period of twenty-eight days beginning with the commencement of this Act;

and a transferred patient may be retaken and returned under the said section forty at any time.

Supplemental

22 Any opinion recorded by the responsible medical officer under this Part of this Schedule shall be recorded in such form as may be prescribed by regulations made by the Minister.

23 (1) In this Part of this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say—

" current period of treatment " means, in relation to any patient, 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 this Act, or any enactment repealed or replaced by any such enactment as aforesaid, being a period which began but has not expired before the commencement of this Act;

" initial period " has the meaning assigned to it by paragraph 7 of this Schedule;

" the responsible medical officer " means—

- (a) 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;
- (b) in relation to any other class of patient, the medical practitioner in charge of the treatment of the patient;

" transferred patient " has the meaning assigned to it by paragraph 15 of this Schedule ;

" short-period patient " means a patient to whom paragraph 18, 19, or 20 of this Schedule applies.

(2) Subsection (2) of section fifty-nine of this Act shall apply for the purposes of this Part of this Schedule as it applies for the purposes of Part IV 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 the commencement of this Act by virtue of an order under section nine of the Mental Deficiency Act, 1913, shall be treated for the purposes of this Part 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.