



Criminal Justice (Scotland) Act 1949

1949 CHAPTER 94

PART II

ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

Treatment of persons of unsound mind and mental defectives

63 Establishment of State Mental Hospitals

- (1) The Secretary of State may provide accommodation in a State Mental Hospital for persons of unsound mind who are ordered to be kept in strict custody till His Majesty's pleasure be known and for other persons of unsound mind who cannot be suitably cared for in a mental hospital within the meaning of the Lunacy (Scotland) Acts, 1857 to 1913, and in connection therewith may provide such medical, nursing and other services as may be required.
- (2) The expressions " criminal lunatic " and " criminal lunatic asylum " shall cease to be used and there shall be respectively substituted in any enactment for those expressions the expressions " state mental patient " and " State Mental Hospital."
- (3) A State Mental Hospital shall be under the management of the General Board of Control for Scotland.
- (4) Subsection (1) of section one and sections two, three and seven of the Criminal Lunatics (Scotland) Act, 1935, shall cease to have effect.
- (5) For the purposes of paragraph (a) of subsection (1) of section sixty-six of the "National Health Service (Scotland) Act, 1947 (which provides for the grant of superannuation benefits to certain officers engaged in health services), officers employed in a State Mental Hospital shall be, deemed to be engaged in health services.
- (6) The aforesaid General Board of Control may, with the approval of the Secretary of State, by statutory instrument make rules for the care and treatment of patients detained in a State Mental Hospital; and any statutory instrument containing such rules shall be laid before Parliament after being made.

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64 Removal of state mental patients, etc.

- (1) The Secretary of State may—
- (a) if he is satisfied that the attendance at any place in Great Britain of a state mental patient is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place;
 - (b) if he is satisfied that a state mental patient requires medical or surgical treatment which cannot be provided in the mental hospital in which he is required by law to be detained, direct him to be taken to a hospital or other suitable place for the purpose of the treatment,
- and where any person is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place and while being taken back to the mental hospital in which he is required by law to be detained.
- (2) The Secretary of State may, on the application of a state mental patient or a relation of the patient, order the patient's removal from a mental hospital in Scotland to a mental hospital in England; and any patient so removed shall be liable to be dealt with as if he had been sentenced or ordered to be detained or otherwise committed to custody, as the case may be, by a court in England.
- (3) If, under any enactment extending to England, a Broadmoor patient is ordered to be removed from a mental hospital in England to a mental hospital in Scotland, he shall be liable to be dealt with as if he had been sentenced or ordered to be detained or otherwise committed to custody, as the case may be, by a court in Scotland.
- (4) In this section any reference to a mental hospital shall include a reference to a State Mental Hospital and references to a State Mental Hospital and to a state mental patient shall, until the day appointed for the coming into operation of section sixty-three of this Act, respectively include references to the lunatic department of Perth Prison and to persons detained therein.

65 Treatment of persons transferred from prisons, etc., under the Mental Deficiency and Lunacy (Scotland) Act, 1913, s. 10

- (1) Where an order under section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913, that a person be transferred to an institution for defectives or be placed under guardianship expires, or the person to whom the order relates is ordered to be discharged from such institution or guardianship then, if, at the time of such expiry or order for discharge, either—
- (a) the period during which such person could, if the order under the said section ten had not been made, have been detained in the prison or other place in which he was detained when that order was made, has not expired ; or
 - (b) the person is subject to an order for his custody until His Majesty's pleasure be known,
- the Secretary of State may remit him to any prison or other place in which he could have been detained if the order under the said section ten had not been made; and such person shall be liable accordingly to be dealt with as if he had never been transferred to the institution for defectives or placed under guardianship.
- (2) Subsection (1) of section sixteen of the Mental Deficiency and Lunacy (Scotland) Act, 1913 (which relates to transfer from institutions for defectives to mental hospitals and vice versa) shall not apply to a person detained in an institution for defectives

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during the period aforesaid; but if at any time during that period it appears to two registered medical practitioners that any person so transferred to the institution is of unsound mind, they shall certify in writing to that effect and the Secretary of State may thereupon by warrant direct that he be removed to such mental hospital as may be named in the warrant; and the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871, shall apply to him as if he had been removed to the mental hospital from a prison.