



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART II

#### COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

##### *Procedure for hospital admission*

#### **2 Admission for assessment**

- (1) A patient may be admitted to a hospital and detained there for the period allowed by subsection (4) below in pursuance of an application (in this Act referred to as "an application for admission for assessment") made in accordance with subsections (2) and (3) below.
- (2) An application for admission for assessment may be made in respect of a patient on the grounds that—
  - (a) he is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period ; and
  - (b) he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons.
- (3) An application for admission for assessment shall be founded on the written recommendations in the prescribed form of two registered medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in subsection (2) above are complied with.
- (4) Subject to the provisions of section 29(4) below, a patient admitted to hospital in pursuance of an application for admission for assessment may be detained for a period not exceeding 28 days beginning with the day on which he is admitted, but shall not be detained after the expiration of that period unless before it has expired he has become liable to be detained by virtue of a subsequent application, order or direction under the following provisions of this Act.

### **3 Admission for treatment**

- (1) A patient may be admitted to a hospital and detained there for the period allowed by the following provisions of this Act in pursuance of an application (in this Act referred to as "an application for admission for treatment") made in accordance with this section.
- (2) An application for admission for treatment may be made in respect of a patient on the grounds that—
  - (a) he is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital; and
  - (b) in the case of psychopathic disorder or mental impairment, such treatment is likely to alleviate or prevent a deterioration of his condition; and
  - (c) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and it cannot be provided unless he is detained under this section.
- (3) An application for admission for treatment shall be founded on the written recommendations in the prescribed form<sup>1</sup> of two registered medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in subsection (2) above are complied with; and each such recommendation shall include—
  - (a) such particulars as may be prescribed of the grounds for that opinion so far as it relates to the conditions set out in paragraphs (a) and (b) of that subsection; and
  - (b) a statement of the reasons for that opinion so far as it relates to the conditions set out in paragraph (c) of that subsection, specifying whether other methods of dealing with the patient are available and, if so, why they are not appropriate.

### **4 Admission for assessment in cases of emergency**

- (1) In any case of urgent necessity, an application for admission for assessment may be made in respect of a patient in accordance with the following provisions of this section, and any application so made is in this Act referred to as " an emergency application ".
- (2) An emergency application may be made either by an approved social worker or by the nearest relative of the patient; and every such application shall include a statement that it is of urgent necessity for the patient to be admitted and detained under section 2 above, and that compliance with the provisions of this Part of this Act relating to applications under that section would involve undesirable delay.
- (3) An emergency application shall be sufficient in the first instance if founded on one of the medical recommendations required by section 2 above, given, if practicable, by a practitioner who has previous acquaintance with the patient and otherwise complying with the requirements of section 12 below so far as applicable to a single recommendation, and verifying the statement referred to in subsection (2) above.
- (4) An emergency application shall cease to have effect on the expiration of a period of 72 hours from the time when the patient is admitted to the hospital unless—
  - (a) the second medical recommendation required by section 2 above is given and received by the managers within that period ; and

- (b) that recommendation and the recommendation referred to in subsection (3) above together comply with all the requirements of section 12 below (other than the requirement as to the time of signature of the second recommendation).
- (5) In relation to an emergency application, section 11 below shall have effect as if in subsection (5) of that section for the words " the period of 14 days ending with the date of the application " there were substituted the words " the previous 24 hours " .

## **5 Application in respect of patient already in hospital**

- (1) An application for the admission of a patient to a hospital may be made under this Part of this Act notwithstanding that the patient is already an in-patient in that hospital or, in the case of an application for admission for treatment that the patient is for the time being liable to be detained in the hospital in pursuance of an application for admission for assessment; and where an application is so made the patient shall be treated for the purposes of this Part of this Act as if he had been admitted to the hospital at the time when that application was received by the managers.
- (2) If, in the case of a patient who is an in-patient in a hospital, it appears to the registered medical practitioner in charge of the treatment of the patient that an application ought to be made under this Part of this Act for the admission of the patient to hospital, he may furnish to the managers a report in writing to that effect; and in any such case the patient may be detained in the hospital for a period of 72 hours from the time when the report is so furnished.
- (3) The registered medical practitioner in charge of the treatment of a patient in a hospital may nominate one (but not more than one) other registered medical practitioner on the staff of that hospital to act for him under subsection (2) above in his absence.
- (4) If, in the case of a patient who is receiving treatment for mental disorder as an in-patient in a hospital, it appears to a nurse of the prescribed class—
- (a) that the patient is suffering from mental disorder to such a degree that it is necessary for his health or safety or for the protection of others for him to be immediately restrained from leaving the hospital; and
  - (b) that it is not practicable to secure the immediate attendance of a practitioner for the purpose of furnishing a report under subsection (2) above,
- the nurse may record that fact in writing; and in that event the patient may be detained in the hospital for a period of six hours from the time when that fact is so recorded or until the earlier arrival at the place where the patient is detained of a practitioner having power to furnish a report under that subsection.
- (5) A record made under subsection (4) above shall be delivered by the nurse (or by a person authorised by the nurse in that behalf) to the managers of the hospital as soon as possible after it is made; and where a record is made under that subsection the period mentioned in subsection (2) above shall begin at the time when it is made.
- (6) The reference in subsection (1) above to an in-patient does not include an in-patient who is liable to be detained in pursuance of an application under this Part of this Act and the references in subsections (2) and (4) above do not include an in-patient who is liable to be detained in a hospital under this Part of this Act.
- (7) In subsection (4) above " prescribed " means prescribed by an order made by the Secretary of State.

## **6 Effect of application for admission**

- (1) An application for the admission of a patient to a hospital under this Part of this Act, duly completed in accordance with the provisions of this Part of this Act, shall be sufficient authority for the applicant, or any person authorised by the applicant, to take the patient and convey him to the hospital at any time within the following period, that is to say—
  - (a) in the case of an application other than an emergency application, the period of 14 days beginning with the date on which the patient was last examined by a registered medical practitioner before giving a medical recommendation for the purposes of the application;
  - (b) in the case of an emergency application, the period of 24 hours beginning at the time when the patient was examined by the practitioner giving the medical recommendation which is referred to in section 4(3) above, or at the time when the application is made, whichever is the earlier.
- (2) Where a patient is admitted within the said period to the hospital specified in such an application as is mentioned in subsection (1) above, or, being within that hospital, is treated by virtue of section 5 above as if he had been so admitted, the application shall be sufficient authority for the managers to detain the patient in the hospital in accordance with the provisions of this Act.
- (3) Any application for the admission of a patient under this Part of this Act which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of the signature or qualification of the person by whom the application or any such medical recommendation is made or given or of any matter of fact or opinion stated in it.
- (4) Where a patient is admitted to a hospital in pursuance of an application for admission for treatment, any previous application under this Part of this Act by virtue of which he was liable to be detained in a hospital or subject to guardianship shall cease to have effect.

### *Guardianship*

## **7 Application for guardianship**

- (1) A patient who has attained the age of 16 years may be received into guardianship, for the period allowed by the following provisions of this Act, in pursuance of an application (in this Act referred to as " a guardianship application ") made in accordance with this section.
- (2) A guardianship application may be made in respect of a patient on the grounds that—
  - (a) he is suffering from mental disorder, being mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is of a nature or degree which warrants his reception into guardianship under this section; and
  - (b) it is necessary in the interests of the welfare of the patient or for the protection of other persons that the patient should be so received.
- (3) A guardianship application shall be founded on the written recommendations in the prescribed form of two registered medical practitioners, including in each case a

statement that in the opinion of the practitioner the conditions set out in subsection (2) above are complied with; and each such recommendation shall include—

- (a) such particulars as may be prescribed of the grounds for that opinion so far as it relates to the conditions set out in paragraph (a) of that subsection; and
  - (b) a statement of the reasons for that opinion so far as it relates to the conditions set out in paragraph (b) of that subsection.
- (4) A guardianship application shall state the age of the patient or, if his exact age is not known to the applicant, shall state (if it be the fact) that the patient is believed to have attained the age of 16 years.
- (5) The person named as guardian in a guardianship application may be either a local social services authority or any other person (including the applicant himself); but a guardianship application in which a person other than a local social services authority is named as guardian shall be of no effect unless it is accepted on behalf of that person by the local social services authority for the area in which he resides, and shall be accompanied by a statement in writing by that person that he is willing to act as guardian.

## **8 Effect of guardianship application, etc.**

- (1) Where a guardianship application, duly made under the provisions of this Part of this Act and forwarded to the local social services authority within the period allowed by subsection (2) below is accepted by that authority, the application shall, subject to regulations made by the Secretary of State, confer on the authority or person named in the application as guardian, to the exclusion of any other person—
  - (a) the power to require the patient to reside at a place specified by the authority or person named as guardian ;
  - (b) the power to require the patient to attend at places and times so specified for the purpose of medical treatment, occupation, education or training;
  - (c) the power to require access to the patient to be given, at any place where the patient is residing, to any registered medical practitioner, approved social worker or other person so specified.
- (2) The period within which a guardianship application is required for the purposes of this section to be forwarded to the local social services authority is the period of 14 days beginning with the date on which the patient was last examined by a registered medical practitioner before giving a medical recommendation for the purposes of the application.
- (3) A guardianship application which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of the signature or qualification of the person by whom the application or any such medical recommendation is made or given, or of any matter of fact or opinion stated in the application.
- (4) If within the period of 14 days beginning with the day on which a guardianship application has been accepted by the local social services authority the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective, the application or recommendation may, within that period and with the consent of that authority, be amended by the person by whom it was signed; and upon such amendment being made the application or

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recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.

- (5) Where a patient is received into guardianship in pursuance of a guardianship application, any previous application under this Part of this Act by virtue of which he was subject to guardianship or liable to be detained in a hospital shall cease to have effect.

## **9 Regulations as to guardianship**

- (1) Subject to the provisions of this Part of this Act, the Secretary of State may make regulations—
- (a) for regulating the exercise by the guardians of patients received into guardianship under this Part of this Act of their powers as such ; and
  - (b) for imposing on such guardians, and upon local social services authorities in the case of patients under the guardianship of persons other than local social services authorities, such duties as he considers necessary or expedient in the interests of the patients.
- (2) Regulations under this section may in particular make provision for requiring the patients to be visited, on such occasions or at such intervals as may be prescribed by the regulations, on behalf of such local social services authorities as may be so prescribed, and shall provide for the appointment, in the case of every patient subject to the guardianship of a person other than a local social services authority, of a registered medical practitioner to act as the nominated medical attendant of the patient.

## **10 Transfer of guardianship in case of death, incapacity, etc., of guardian**

- (1) If any person (other than a local social services authority) who is the guardian of a patient received into guardianship under this Part of this Act—
- (a) dies; or
  - (b) gives notice in writing to the local social services authority that he desires to relinquish the functions of guardian,
- the guardianship of the patient shall thereupon vest in the local social services authority, but without prejudice to any power to transfer the patient into the guardianship of another person in pursuance of regulations under section 19 below.
- (2) If any such person, not having given notice under subsection (1)(b) above, is incapacitated by illness or any other cause from performing the functions of guardian of the patient, those functions may, during his incapacity, be performed on his behalf by the local social services authority or by any other person approved for the purposes by that authority.
- (3) If it appears to the county court, upon application made by an approved social worker, that any person other than a local social services authority having the guardianship of a patient received into guardianship under this Part of this Act has performed his functions negligently or in a manner contrary to the interests of the welfare of the patient, the court may order that the guardianship of the patient be transferred to the local social services authority or to any other person approved for the purpose by that authority.
- (4) Where the guardianship of a patient is transferred to a local social services authority or other person by or under this section, subsection (2)(c) of section 19 below shall

apply as if the patient had been transferred into the guardianship of that authority or person in pursuance of regulations under that section.

*General provisions as to applications and recommendations*

**11 General provisions as to applications**

- (1) Subject to the provisions of this section, an application for admission for assessment, an application for admission for treatment and a guardianship application may be made either by the nearest relative of the patient or by an approved social worker; and every such application shall specify the qualification of the applicant to make the application.
- (2) Every application for admission shall be addressed to the managers of the hospital to which admission is sought and every guardianship application shall be forwarded to the local social services authority named in the application as guardian, or, as the case may be, to the local social services authority for the area in which the person so named resides.
- (3) Before or within a reasonable time after an application for the admission of a patient for assessment is made by an approved social worker, that social worker shall take such steps as are practicable to inform the person (if any) appearing to be the nearest relative of the patient that the application is to be or has been made and of the power of the nearest relative under section 23(2)(a) below.
- (4) Neither an application for admission for treatment nor a guardianship application shall be made by an approved social worker if the nearest relative of the patient has notified that social worker, or the local social services authority by whom that social worker is appointed, that he objects to the application being made and, without prejudice to the foregoing provision, no such application shall be made by such a social worker except after consultation with the person (if any) appearing to be the nearest relative of the patient unless it appears to that social worker that in the circumstances such consultation is not reasonably practicable or would involve unreasonable delay.
- (5) None of the applications mentioned in subsection (1) above shall be made by any person in respect of a patient unless that person has personally seen the patient within the period of 14 days ending with the date of the application.
- (6) An application for admission for treatment or a guardianship application, and any recommendation given for the purposes of such an application, may describe the patient as suffering from more than one of the following forms of mental disorder, namely mental illness, severe mental impairment, psychopathic disorder or mental impairment; but the application shall be of no effect unless the patient is described in each of the recommendations as suffering from the same form of mental disorder, whether or not he is also described in either of those recommendations as suffering from another form.
- (7) Each of the applications mentioned in subsection (1) above shall be sufficient if the recommendations on which it is founded are given either as separate recommendations, each signed by a registered medical practitioner, or as a joint recommendation signed by two such practitioners.

## 12 General provisions as to medical recommendations

- (1) The recommendations required for the purposes of an application for the admission of a patient under this Part of this Act (in this Act referred to as " medical recommendations ") shall be signed on or before the date of the application, and shall be given by practitioners who have personally examined the patient either together or separately, but where they have examined the patient separately not more than five days must have elapsed between the days on which the separate examinations took place.
- (2) Of the medical recommendations given for the purposes of any such application, one shall be given by a practitioner approved for the purposes of this section by title Secretary of State as having special experience in the diagnosis or treatment of mental disorder; and unless that practitioner has previous acquaintance with the patient, the other such recommendation shall, if practicable, be given by a registered medical practitioner who has such previous acquaintance.
- (3) Subject to subsection (4) below, where the application is for the admission of the patient to a hospital which is not a mental nursing home, one (but not more than one) of the medical recommendations may be given by a practitioner on the staff of that hospital, except where the patient is proposed to be accommodated under section 65 or 66 of the National Health Service Act 1977 (which relate to accommodation for private patients).
- (4) Subsection (3) above shall not preclude both the medical recommendations being given by practitioners on the staff of the hospital in question if—
  - (a) compliance with that subsection would result in delay involving serious risk to the health or safety of the patient; and
  - (b) one of the practitioners giving the recommendations works at the hospital for less than half of the time which he is bound by contract to devote to work in the health service; and
  - (c) where one of those practitioners is a consultant, the other does not work (whether at the hospital or elsewhere) in a grade in which he is under that consultant's directions.
- (5) A medical recommendation for the purposes of an application for the admission of a patient under this Part of this Act shall not be given by—
  - (a) the applicant;
  - (b) a partner of the applicant or of a practitioner by whom another medical recommendation is given for the purposes of the same application;
  - (c) a person employed as an assistant by the applicant or by any such practitioner;
  - (d) a person who receives or has an interest in the receipt of any payments made on account of the maintenance of the patient; or
  - (e) except as provided by subsection (3) or (4) above, a practitioner on the staff of the hospital to which the patient is to be admitted,or by the husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law of the patient, or of any person mentioned in paragraphs (a) to (e) above, or of a practitioner by whom another medical recommendation is given for the purposes of the same application.
- (6) A general practitioner who is employed part-time in a hospital shall not for the purposes of this section be regarded as a practitioner on its staff.



- (7) Subsections (1), (2) and (5) above shall apply to applications for guardianship as they apply to applications for admission but with the substitution for paragraph (e) of subsection (5) above of the following paragraph—

“(e) the person named as guardian in the application.”.

### **13 Duty of approved social workers to make applications for admission or guardianship**

- (1) It shall be the duty of an approved social worker to make an application for admission to hospital or a guardianship application in respect of a patient within the area of the local social services authority by which that officer is appointed in any case where he is satisfied that such an application ought to be made and is of the 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) Before making an application for the admission of a patient to hospital an approved social worker shall interview the patient in a suitable manner and satisfy himself that detention in a hospital is in all the circumstances of the case the most appropriate way of providing the care and medical treatment of which the patient stands in need.
- (3) An application under this section by an approved social worker may be made outside the area of the local social services authority by which he is appointed.
- (4) It shall be the duty of a local social services authority, if so required by the nearest relative of a patient residing in their area, to direct an approved social worker as soon as practicable to take the patient's case into consideration under subsection (1) above with a view to making an application for his admission to hospital; and if in any such case that approved social worker decides not to make an application he shall inform the nearest relative of his reasons in writing.
- (5) Nothing in this section shall be construed as authorising or requiring an application to be made by an approved social worker in contravention of the provisions of section 11(4) above, or as restricting the power of an approved social worker to make any application under this Act.

### **14 Social reports**

Where a patient is admitted to a hospital in pursuance of an application (other than an emergency application) made under this Part of this Act by his nearest relative, the managers of the hospital shall as soon as practicable give notice of that fact to the local social services authority for the area in which the patient resided immediately before his admission; and that authority shall as soon as practicable arrange for a social worker of their social services department to interview the patient and provide the managers with a report on his social circumstances.

### **15 Rectification of applications and recommendations**

- (1) If within the period of 14 days beginning with the day on which a patient has been admitted to a hospital in pursuance of an application for admission for assessment or for treatment the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective, the application or recommendation may, within that period and with the consent of the managers of the hospital, be amended by the person by whom it was signed; and upon such amendment

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being made the application or recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.

- (2) Without prejudice to subsection (1) above, if within the period mentioned in that subsection it appears to the managers of the hospital that one of the two medical recommendations on which an application for the admission of a patient is founded is insufficient to warrant the detention of the patient in pursuance of the application, they may, within that period, give notice in writing to that effect to the applicant; and where any such notice is given in respect of a medical recommendation, that recommendation shall be disregarded, but the application shall be, and shall be deemed always to have been, sufficient if—
  - (a) a fresh medical recommendation complying with the relevant provisions of this Part of this Act (other than the provisions relating to the time of signature and the interval between examinations) is furnished to the managers within that period ; and
  - (b) that recommendation, and the other recommendation on which the application is founded, together comply with those provisions.
- (3) Where the medical recommendations upon which an application for admission is founded are, taken together, insufficient to warrant the detention of the patient in pursuance of the application, a notice under subsection (2) above may be given in respect of either of those recommendations; but this subsection shall not apply in a case where the application is of no effect by virtue of section 11(6) above.
- (4) Nothing in this section shall be construed as authorising the giving of notice in respect of an application made as an emergency application, or the detention of a patient admitted in pursuance of such an application, after the period of 72 hours referred to in section 4(4) above, unless the conditions set out in paragraphs (a) and (b) of that section are complied with or would be complied with apart from any error or defect to which this section applies.

*Position of patients subject to detention or guardianship*

## **16      Reclassification of patients**

- (1) If in the case of a patient who is for the time being detained in a hospital in pursuance of an application for admission for treatment, or subject to guardianship in pursuance of a guardianship application, it appears to the appropriate medical officer that the patient is suffering from a form of mental disorder other than the form or forms specified in the application, he may furnish to the managers of the hospital, or to the guardian, as the case may be, a report to that effect; and where a report is so furnished, the application shall have effect as if that other form of mental disorder were specified in it.
- (2) Where a report under subsection (1) above in respect of a patient detained in a hospital is to the effect that he is suffering from psychopathic disorder or mental impairment but not from mental illness or severe mental impairment the appropriate medical officer shall include in the report a statement of his opinion whether further medical treatment in hospital is likely to alleviate or prevent a deterioration of the patient's condition ; and if he states that in his opinion such treatment is not likely to have that effect the authority of the managers to detain the patient shall cease.

- (3) Before furnishing a report under subsection (1) above the appropriate medical officer shall consult one or more other persons who have been professionally concerned with the patient's medical treatment.
- (4) Where a report is furnished under this section in respect of a patient, the managers or guardian shall cause the patient and the nearest relative to be informed.
- (5) In this section " appropriate medical officer " means—
  - (a) in the case of a patient who is subject to the guardianship of a person other than a local social services authority, the nominated medical attendant of the patient; and
  - (b) in any other case, the responsible medical officer.

## **17 Leave of absence from hospital**

- (1) The responsible medical officer may grant to any patient who is for the time being liable to be detained in a hospital under this Part of this Act leave to be absent from the hospital subject to such conditions (if any) as that officer considers necessary in the interests of the patient or for the protection of other persons.
- (2) Leave of absence may be granted to a patient under this section either indefinitely or on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the patient.
- (3) Where it appears to the responsible medical officer that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient may be kept in the custody of any officer on the staff of the hospital, or of any other person authorised in writing by the managers of the hospital or, if the patient is required in accordance with conditions imposed on the grant of leave of absence to reside in another hospital, of any officer on the staff of that other hospital.
- (4) In any case where a patient is absent from a hospital in pursuance of leave of absence granted under this section, and it appears to the responsible medical officer that it is necessary so to do in the interests of the patient's health or safety or for the protection of other persons, that officer may, subject to subsection (5) below, by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the hospital.
- (5) A patient to whom leave of absence is granted under this section shall not be recalled under subsection (4) above after he has ceased to be liable to be detained under this Part of this Act; and without prejudice to any other provision of this Part of this Act any such patient shall cease to be so liable at the expiration of the period of six months beginning with the first day of his absence on leave unless either—
  - (a) he has returned to the hospital, or has been transferred to another hospital under the following provisions of this Act, before the expiration of that period; or
  - (b) he is absent without leave at the expiration of that period.

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## **18 Return and readmission of patients absent without leave**

- (1) Where a patient who is for the time being liable to be detained under this Part of this Act in a hospital—
- (a) absents himself from the hospital without leave granted under section 17 above; or
  - (b) fails to return to the hospital on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that section, or upon being recalled under that section; or
  - (c) absents himself without permission from any place where he is required to reside in accordance with conditions imposed on the grant of leave of absence under that section,

he may, subject to the provisions of this section, be taken into custody and returned to the hospital or place by any approved social worker, by any officer on the staff of the hospital, by any constable, or by any person authorised in writing by the managers of the hospital.

- (2) Where the place referred to in paragraph (c) of subsection (1) above is a hospital other than the one in which the patient is for the time being liable to be detained, the references in that subsection to an officer on the staff of the hospital and the managers of the hospital shall respectively include references to an officer on the staff of the first-mentioned hospital and the managers of that hospital.
- (3) Where a patient who is for the time being subject to guardianship under this Part of this Act absents himself without the leave of the guardian from the place at which he is required by the guardian to reside, he may, subject to the provisions of this section, be taken into custody and returned to that place by any officer on the staff of a local social services authority, by any constable, or by any person authorised in writing by the guardian or a local social services authority.
- (4) A patient shall not be taken into custody under this section after the expiration of the period of 28 days beginning with the first day of his absence without leave; and a patient who has not returned or been taken into custody under this section within the said period shall cease to be liable to be detained or subject to guardianship, as the case may be, at the expiration of that period.
- (5) A patient shall not be taken into custody under this section if the period for which he is liable to be detained is that specified in section 2(4), 4(4) or 5(2) or (4) above and that period has expired.
- (6) In this Act " absent without leave " means absent from any hospital or other place and liable to be taken into custody and returned under this section, and related expressions shall be construed accordingly.

## **19 Regulations as to transfer of patients**

- (1) In such circumstances and subject to such conditions as may be prescribed by regulations made by the Secretary of State
- (a) a patient who is for the time being liable to be detained in a hospital by virtue of an application under this Part of this Act may be transferred to another hospital or into the guardianship of a local social services authority or of any person approved by such an authority;
  - (b) a patient who is for the time being subject to the guardianship of a local social services authority or other person by virtue of an application under this Part

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of this Act may be transferred into the guardianship of another local social services authority or person, or be transferred to a hospital.

- (2) Where a patient is transferred in pursuance of regulations under this section, the provisions of this Part of this Act (including this subsection) shall apply to him as follows, that is to say—
- (a) in the case of a patient who is liable to be detained in a hospital by virtue of an application for admission for assessment or for treatment and is transferred to another hospital, as if the application were an application for admission to that other hospital and as if the patient had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application;
  - (b) in the case of a patient who is liable to be detained in a hospital by virtue of such an application and is transferred into guardianship, as if the application were a guardianship application duly accepted at the said time;
  - (c) in the case of a patient who is subject to guardianship by virtue of a guardianship application and is transferred into the guardianship of another authority or person, as if the application were for his reception into the guardianship of that authority or person and had been accepted at the time when it was originally accepted;
  - (d) in the case of a patient who is subject to guardianship by virtue of a guardianship application and is transferred to a hospital, as if the guardianship application were an application for admission to that hospital for treatment and as if the patient had been admitted to the hospital at the time when the application was originally accepted.
- (3) Without prejudice to subsections (1) and (2) above, any patient, who is for the time being liable to be detained under this Part of this Act in a hospital vested in the Secretary of State for the purposes of his functions under the National Health Service Act 1977 or any accommodation used under Part I of that Act by the managers of such a hospital, may at any time be removed to any other such hospital or accommodation for which the managers of the first-mentioned hospital are also the managers ; and paragraph (a) of subsection (2) above shall apply in relation to a patient so removed as it applies in relation to a patient transferred in pursuance of regulations made under this section.
- (4) Regulations made under this section may make provision for regulating the conveyance to their destination of patients authorised to be transferred or removed in pursuance of the regulations or under subsection (3) above.

#### *Duration of detention or guardianship and discharge*

### **20 Duration of authority**

- (1) Subject to the following provisions of this Part of this Act, a patient admitted to hospital in pursuance of an application for admission for treatment, and a patient placed under guardianship in pursuance of a guardianship application, may be detained in a hospital or kept under guardianship for a period not exceeding six months beginning with the day on which he was so admitted, or the day on which the guardianship application was accepted, as the case may be, but shall not be so detained or kept for any longer period unless the authority for his detention or guardianship is renewed under this section.

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- (2) Authority for the detention or guardianship of a patient may, unless the patient has previously been discharged, be renewed—
- (a) from the expiration of the period referred to in subsection (1) above, for a further period of six months;
  - (b) from the expiration of any period of renewal under paragraph (a) above, for a further period of one year,
- and so on for periods of one year at a time.
- (3) Within the period of two months ending on the day on which a patient who is liable to be detained in pursuance of an application for admission for treatment would cease under this section to be so liable in default of the renewal of the authority for his detention, it shall be the duty of the responsible medical officer—
- (a) to examine the patient; and
  - (b) if it appears to him that the conditions set out in subsection (4) below are satisfied, to furnish to the managers of the hospital where the patient is detained a report to that effect in the prescribed form ;
- and where such a report is furnished in respect of a patient the managers shall, unless they discharge the patient, cause him to be informed.
- (4) The conditions referred to in subsection (3) above are that—
- (a) the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment, and his mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital; and
  - (b) such treatment is likely to alleviate or prevent a deterioration of his condition; and
  - (c) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and that it cannot be provided unless he continues to be detained ;
- but, in the case of mental illness or severe mental impairment, it shall be an alternative to the condition specified in paragraph (b) above that the patient, if discharged, is unlikely to be able to care for himself, to obtain the care which he needs or to guard himself against serious exploitation.
- (5) Before furnishing a report under subsection (3) above the responsible medical officer shall consult one or more other persons who have been professionally concerned with the patient's medical treatment
- (6) Within the period of two months ending with the day on which a patient who is subject to guardianship under this Part of this Act would cease under this section to be so liable in default of the renewal of the authority for his guardianship, it shall be the duty of the appropriate medical officer—
- (a) to examine the patient; and
  - (b) if it appears to him that the conditions set out in subsection (7) below are satisfied, to furnish to the guardian and, where the guardian is a person other than a local social services authority, to the responsible local social services authority a report to that effect in the prescribed form ;
- and where such a report is furnished in respect of a patient, the local social services authority shall, unless they discharge the patient, cause him to be informed.
- (7) The conditions referred to in subsection (6) above are that—

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- (a) the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is of a nature or degree which warrants his reception into guardianship ; and
  - (b) it is necessary in the interests of the welfare of the patient or for the protection of other persons that the patient should remain under guardianship.
- (8) Where a report is duly furnished under subsection (3) or (6) above, the authority for the detention or guardianship of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) above.
- (9) Where the form of mental disorder specified in a report furnished under subsection (3) or (6) above is a form of disorder other than that specified in the application for admission for treatment or, as the case may be, in the guardianship application, that application shall have effect as if that other form of mental disorder were specified in it; and where on any occasion a report specifying such a form of mental disorder is furnished under either of those subsections the appropriate medical officer need not on that occasion furnish a report under section 16 above.
- (10) In this section " appropriate medical officer" has the same meaning as in section 16(5) above.

## **21 Special provisions as to patients absent without leave**

- (1) If on the day on which, apart from this section, a patient would cease to be liable to be detained or subject to guardianship under this Part of this Act or, within the period of one week ending with that day, the patient is absent without leave, he shall not cease to be so liable or subject—
- (a) in any case, until the expiration of the period during which he can be taken into custody under section 18 above or the day on which he is returned or returns himself to the hospital or place where he ought to be, whichever is the earlier ; and
  - (b) if he is so returned or so returns himself within the period first mentioned in paragraph (a) above, until the expiration of the period of one week beginning with the day on which he is so returned or so returns.
- (2) Where the period for which a patient is liable to be detained or subject to guardianship is extended by virtue of this section, any examination and report to be made and furnished under section 20(3) or (6) above may be made and furnished within that period as so extended.
- (3) Where the authority for the detention or guardianship of a patient is renewed by virtue of this section after the day on which, apart from this section, that authority would have expired under section 20 above, the renewal shall take effect as from that day.

## **22 Special provisions as to patients sentenced to imprisonment, etc.**

- (1) Where a patient who is liable to be detained by virtue of an application for admission for treatment or is subject to guardianship by virtue of a guardianship application is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody), and is so detained for a period exceeding, or for successive periods exceeding in the aggregate, six months, the application shall cease to have effect at the expiration of that period.

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- (2) Where any such patient is so detained in custody but the application does not cease to have effect under subsection (1) above, then—
- (a) if apart from this subsection the patient would have ceased to be liable to be so detained or subject to guardianship on or before the day on which he is discharged from custody, he shall not cease and shall be deemed not to have ceased to be so liable or subject until the end of that day ; and
  - (b) in any case, sections 18 and 21 above shall apply in relation to the patient as if he had absented himself without leave on that day.

## **23 Discharge of patients**

- (1) Subject to the provisions of this section and section 25 below, a patient who is for the time being liable to be detained or subject to guardianship under this Part of this Act shall cease to be so liable or subject if an order in writing discharging him from detention or guardianship (in this Act referred to as " an order for discharge ") is made in accordance with this section.
- (2) An order for discharge may be made in respect of a patient—
- (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for assessment or for treatment by the responsible medical officer, by the managers or by the nearest relative of the patient;
  - (b) where the patient is subject to guardianship, by the responsible medical officer, by the responsible local social services authority or by the nearest relative of the patient.
- (3) Where the patient is liable to be detained in a mental nursing home in pursuance of an application for admission for assessment or for treatment, an order for his discharge may, without prejudice to subsection (2) above, be made by the Secretary of State and, if the patient is maintained under a contract with a Regional Health Authority, District Health Authority or special health authority, by that authority.
- (4) The powers conferred by this section on any authority or body of persons may be exercised by any three or more members of that authority or body authorised by them in that behalf or by three or more members of a committee or subcommittee of that authority or body which has been authorised by them in that behalf.

## **24 Visiting and examination of patients**

- (1) For the purpose of advising as to the exercise by the nearest relative of a patient who is liable to be detained or subject to guardianship under this Part of this Act of any power to order his discharge, any registered medical practitioner authorised by or on behalf of the nearest relative of the patient may, at any reasonable time, visit the patient and examine him in private.
- (2) Any registered medical practitioner authorised for the purposes of subsection (1) above to visit and examine a patient may require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.
- (3) Where application is made by the Secretary of State or a Regional Health Authority, District Health Authority or special health authority to exercise, in respect of a patient liable to be detained in a mental nursing home, any power to make an order for his discharge, the following persons, that is to say—



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- (a) any registered medical practitioner authorised by the Secretary of State or, as the case may be, that authority; and
  - (b) any other person (whether a registered medical practitioner or not) authorised under the Nursing Homes Act 1975 to inspect the home,
- may at any reasonable time visit the patient and interview him in private.
- (4) Any person authorised for the purposes of subsection (3) above to visit a patient may require the production of and inspect any documents constituting or alleged to constitute the authority for the detention of the patient under this Part of this Act; and any person so authorised, who is a registered medical practitioner, may examine the patient in private, and may require the production of and inspect any other records relating to the treatment of the patient in the home.

## **25 Restrictions on discharge by nearest relative**

- (1) An order for the discharge of a patient who is liable to be detained in a hospital shall not be made by his nearest relative except after giving not less than 72 hours' notice in writing to the managers of the hospital; and if, within 72 hours after such notice has been given, the responsible medical officer furnishes to the managers a report certifying that in the opinion of that officer the patient, if discharged, would be likely to act in a manner dangerous to other persons or to himself—
- (a) any order for the discharge of the patient made by that relative in pursuance of the notice shall be of no effect; and
  - (b) no further order for the discharge of the patient shall be made by that relative during the period of six months beginning with the date of the report.
- (2) In any case where a report under subsection (1) above is furnished in respect of a patient who is liable to be detained in pursuance of an application for admission for treatment the managers shall cause the nearest relative of the patient to be informed.

### *Functions of relatives of patients*

## **26 Definition of " relative " and " nearest relative "**

- (1) In this Part of this Act " relative " means any of the following persons:—
- (a) husband or wife;
  - (b) son or daughter;
  - (c) father or mother;
  - (d) brother or sister;
  - (e) grandparent;
  - (f) grandchild;
  - (g) uncle or aunt;
  - (h) nephew or niece.
- (2) In deducing relationships for the purposes of this section, any relationship of the half-blood shall be treated as a relationship of the whole blood, and an illegitimate person shall be treated as the legitimate child of his mother.
- (3) In this Part of this Act, subject to the provisions of this section and to the following provisions of this Part of this Act, the " nearest relative " means the person first described in subsection (1) above who is for the time being surviving, relatives of

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the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of two or more relatives described in any paragraph of that subsection being preferred to the other or others of those relatives, regardless of sex.

- (4) Subject to the provisions of this section and to the following provisions of this Part of this Act, where the patient ordinarily resides with or is cared for by one or more of his relatives (or, if he is for the time being an in-patient in a hospital, he last ordinarily resided with or was cared for by one or more of his relatives) his nearest relative shall be determined—
- (a) by giving preference to that relative or those relatives over the other or others ; and
  - (b) as between two or more such relatives, in accordance with subsection (3) above.
- (5) Where the person who, under subsection (3) or (4) above, would be the nearest relative of a patient—
- (a) in the case of a patient ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man, is not so resident; or
  - (b) is the husband or wife of the patient, but is permanently separated from the patient, either by agreement or under an order of a court, or has deserted or has been deserted by the patient for a period which has not come to an end ; or
  - (c) is a person other than the husband, wife, father or mother of the patient, and is for the time being under 18 years of age ; or
  - (d) is a person against whom an order divesting him of authority over the patient has been made under section 38 of the Sexual Offences Act 1956 (which relates to incest with a person under eighteen) and has not been rescinded,
- the nearest relative of the patient shall be ascertained as if that person were dead.
- (6) In this section " husband " and " wife " include a person who is living with the patient as the patient's husband or wife, as the case may be (or, if the patient is for the time being an in-patient in a hospital, was so living until the patient was admitted), and has been or had been so living for a period of not less than six months; but a person shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of paragraph (b) of subsection (5) above.
- (7) A person, other than a relative, with whom the patient ordinarily resides (or, if the patient is for the time being an inpatient in a hospital, last ordinarily resided before he was admitted), and with whom he has or had been ordinarily residing for a period of not less than five years, shall be treated for the purposes of this Part of this Act as if he were a relative but—
- (a) shall be treated for the purposes of subsection (3) above as if mentioned last in subsection (1) above; and
  - (b) shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of paragraph (b) of subsection (5) above.

## 27 Children and young persons in care of local authority

In any case where the rights and powers of a parent of a patient, being a child or young person, are vested in a local authority or other person by virtue of—

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- (a) section 3 of the Child Care Act 1980 (which relates to the assumption by a local authority of parental rights and duties in relation to a child in their care);
- (b) section 10 of that Act (which relates to the powers and duties of local authorities with respect to persons committed to their care under the Children and Young Persons Act 1969); or
- (c) section 17 of the Social Work (Scotland) Act 1968 (which makes corresponding provision for Scotland),

that authority or person shall be deemed to be the nearest relative of the patient in preference to any person except the patient's husband or wife (if any) and except, in a case where the said rights and powers are vested in a local authority by virtue of subsection (1) of the said section 3, any parent of the patient not being the person on whose account the resolution mentioned in that subsection was passed.

## **28 Nearest relative of minor under guardianship, etc.**

- (1) Where a patient who has not attained the age of 18 years—
  - (a) is, by virtue of an order made by a court in the exercise of jurisdiction (whether under any enactment or otherwise) in respect of the guardianship of minors (including an order under section 38 of the Sexual Offences Act 1956), or by virtue of a deed or will executed by his father or mother, under the guardianship of a person who is not his nearest relative under the foregoing provisions of this Act, or is under the joint guardianship of two persons of whom one is such a person; or
  - (b) is, by virtue of an order made by a court in the exercise of such jurisdiction or in matrimonial proceedings, or by virtue of a separation agreement between his father and mother, in the custody of any such person,the person or persons having the guardianship or custody of the patient shall, to the exclusion of any other person, be deemed to be his nearest relative.
- (2) Subsection (5) of section 26 above shall apply in relation to a person who is, or who is one of the persons, deemed to be the nearest relative of a patient by virtue of this section as it applies in relation to a person who would be the nearest relative under subsection (3) of that section.
- (3) A patient shall be treated for the purposes of this section as being in the custody of another person if he would be in that other person's custody apart from section 8 above.
- (4) In this section " court" includes a court in Scotland or Northern Ireland, and " enactment" includes an enactment of the Parliament of Northern Ireland, a Measure of the Northern Ireland Assembly and an Order in Council under Schedule 1 of the Northern Ireland Act 1974.

## **29 Appointment by court of acting nearest relative**

- (1) The county court may, upon application made in accordance with the provisions of this section in respect of a patient, by order direct that the functions of the nearest relative of the patient under this Part of this Act and sections 66 and 69 below shall, during the continuance in force of the order, be exercisable by the applicant, or by any other person specified in the application, being a person who, in the opinion of the court, is a proper person to act as the patient's nearest relative and is willing to do so.
- (2) An order under this section may be made on the application of—

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- (a) any relative of the patient;
- (b) any other person with whom the patient is residing (or, if the patient is then an in-patient in a hospital, was last residing before he was admitted); or
- (c) an approved social worker ;

but in relation to an application made by such a social worker, subsection (1) above shall have effect as if for the words " the applicant" there were substituted the words " the local social services authority " .

- (3) An application for an order under this section may be made upon any of the following grounds, that is to say—
  - (a) that the patient has no nearest relative within the meaning of this Act, or that it is not reasonably practicable to ascertain whether he has such a relative, or who that relative is;
  - (b) that the nearest relative of the patient is incapable of acting as such by reason of mental disorder or other illness;
  - (c) that the nearest relative of the patient unreasonably objects to the making of an application for admission for treatment or a guardianship application in respect of the patient; or
  - (d) that the nearest relative of the patient has exercised without due regard to the welfare of the patient or the interests of the public his power to discharge the patient from hospital or guardianship under this Part of this Act, or is likely to do so.
- (4) If, immediately before the expiration of the period for which a patient is liable to be detained by virtue of an application for admission for assessment, an application under this section, which is an application made on the ground specified in subsection (3)(c) or (d) above, is pending in respect of the patient, that period shall be extended—
  - (a) in any case, until the application under this section has been finally disposed of ; and
  - (b) if an order is made in pursuance of the application under this section, for a further period of seven days;

and for the purposes of this subsection an application under this section shall be deemed to have been finally disposed of at the expiration of the time allowed for appealing from the decision of the court or, if notice of appeal has been given within that time, when the appeal has been heard or withdrawn, and " pending " shall be construed accordingly.

- (5) An order made on the ground specified in subsection (3)(a) or (b) above may specify a period for which it is to continue in force unless previously discharged under section 30 below.
- (6) While an order made under this section is in force, the provisions of this Part of this Act (other than this section and section 30 below) and sections 66, 69, 132(4) and 133 below shall apply in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person having the functions of that relative and (without prejudice to section 30 below) shall so apply notwithstanding that the person who was the patient's nearest relative when the order was made is no longer his nearest relative; but this subsection shall not apply to section 66 below in the case mentioned in paragraph (h) of subsection (1) of that section.

### **30 Discharge and variation of orders under s. 29**

- (1) An order made under section 29 above in respect of a patient may be discharged by the county court upon application made—
  - (a) in any case, by the person having the functions of the nearest relative of the patient by virtue of the order;
  - (b) where the order was made on the ground specified in paragraph (a) or paragraph (b) of section 29(3) above, or where the person who was the nearest relative of the patient when the order was made has ceased to be his nearest relative, on the application of the nearest relative of the patient.
- (2) An order made under section 29 above in respect of a patient may be varied by the county court, on the application of the person having the functions of the nearest relative by virtue of the order or on the application of an approved social worker, by substituting for the first-mentioned person a local social services authority or any other person who in the opinion of the court is a proper person to exercise those functions, being an authority or person who is willing to do so.
- (3) If the person having the functions of the nearest relative of a patient by virtue of an order under section 29 above dies—
  - (a) subsections (1) and (2) above shall apply as if for any reference to that person there were substituted a reference to any relative of the patient, and
  - (b) until the order is discharged or varied under those provisions the functions of the nearest relative under this Part of this Act and sections 66 and 69 below shall not be exercisable by any person.
- (4) An order under section 29 above shall, unless previously discharged under subsection (1) above, cease to have effect at the expiration of the period, if any, specified under subsection (5) of that section or, where no such period is specified—
  - (a) if the patient was on the date of the order liable to be detained in pursuance of an application for admission for treatment or by virtue of an order or direction under Part III of this Act (otherwise than under section 35, 36 or 38) or was subject to guardianship under this Part of this Act or by virtue of such an order or direction, or becomes so liable or subject within the period of three months beginning with that date, when he ceases to be so liable or subject (otherwise than on being transferred in pursuance of regulations under section 19 above);
  - (b) if the patient was not on the date of the order, and has not within the said period become, so liable or subject, at the expiration of that period.
- (5) The discharge or variation under this section of an order made under section 29 above shall not affect the validity of anything previously done in pursuance of the order.

#### *Supplemental*

### **31 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

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the contrary in any enactment or rule of law relating to the admissibility of evidence;

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

### **32 Regulations for purposes of Part II**

- (1) The Secretary of State 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 social services 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 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
  - (e) 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) above 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 subsections (1) and (2) above, but subject to section 23(4) above, regulations under this section may determine the manner in which functions under this Part of this Act of the managers of hospitals, local social services authorities, Regional Health Authorities, District Health Authorities or special health authorities 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 and authorities.

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

- (1) An application for the admission to hospital of a minor who is a ward of court may be made under this Part of this Act with the leave of the court; and section 11(4) above shall not apply in relation to an application so made.
- (2) Where a minor who is 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 or under section 66 below 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 a minor who is a ward of court, or the transfer into guardianship of any such minor.

## **34 Interpretation of Part II**

- (1) In this Part of this Act—

" the nominated medical attendant", in relation to a patient who is subject to the guardianship of a person other than a local social services authority, means the person appointed in pursuance of regulations made under section 9(2) above 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 assess-merit or an application for admission for treatment, the registered medical practitioner in charge of the treatment of the patient;
- (b) 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.

- (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 section 3 (4)(b) of the Nursing Homes Act 1975, as it applies in relation to a hospital, 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) 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 social services authority is a reference—

- (a) where the patient is subject to the guardianship of a local social services authority, to that authority ;
- (b) where the patient is subject to the guardianship of a person other than a local social services authority, to the local social services authority for the area in which that person resides.