



Mental Health Act 1983

1983 CHAPTER 20

PART VII

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

101 Preservation of interests in patient's property

- (1) Where any property of a person has been disposed of under this Part of this Act, and under his will or his intestacy, or by any gift perfected or nomination taking effect on his death, any other person would have taken an interest in the property but for the disposal—
 - (a) he shall take the same interest, if and so far as circumstances allow, in any property belonging to the estate of the deceased which represents the property disposed of; and
 - (b) if the property disposed of was real property any property representing it shall so long as it remains part of his estate be treated as if it were real property.
- (2) The judge, in ordering, directing or authorising under this Part of this Act any disposal of property which apart from this section would result in the conversion of personal property into real property, may direct that the property representing the property disposed of shall, so long as it remains the property of the patient or forms part of his estate, be treated as if it were personal property.
- (3) References in subsections (1) and (2) above to the disposal of property are references to—
 - (a) the sale, exchange, charging or other dealing (otherwise than by will) with property other than money,
 - (b) the removal of property from one place to another,
 - (c) the application of money in acquiring property, or
 - (d) the transfer of money from one account to another;and references to property representing property disposed of shall be construed accordingly and as including the result of successive disposals.

Status: This is the original version (as it was originally enacted).

- (4) The judge may give such directions as appear to him necessary or expedient for the purpose of facilitating the operation of subsection (1) above, including the carrying of money to a separate account and the transfer of property other than money.
- (5) Where the judge has ordered, directed or authorised the expenditure of money for the carrying out of permanent improvements on, or otherwise for the permanent benefit of, any property of the patient, he may order that the whole or any part of the money expended or to be expended shall be a charge upon the property, whether without interest or with interest at a specified rate; and an order under this subsection may provide for excluding or restricting the operation of subsection (1) above.
- (6) A charge under subsection (5) above may be made in favour of such person as may be just, and in particular, where the money charged is paid out of the patient's general estate, may be made in favour of a person as trustee for the patient; but no charge under that subsection shall confer any right of sale or foreclosure during the lifetime of the patient.