



Mental Health Act 1959

1959 CHAPTER 72

PART IV

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Procedure for hospital admission

25 Admission for observation

- (1) A patient may be admitted to a hospital, and there detained for the period allowed by this section, in pursuance of an application (in this Act referred to as an application for admission for observation) made in accordance with the following provisions of this section.
- (2) An application for admission for observation may be made in respect of a patient on the grounds—
 - (a) that he is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital under observation (with or without other medical treatment) for at least a limited period ; and
 - (b) that 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 observation shall be founded on the written recommendations in the prescribed form of two medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in paragraphs (a) and (b) of subsection (2) of this section are complied with.
- (4) Subject to the provisions of section fifty-two of this Act (in a case where an application is made under that section for transferring the functions of the nearest relative of the patient), a patient admitted to hospital in pursuance of an application for admission for observation may be detained for a period not exceeding twenty-eight days beginning with the day on which he is admitted, but shall not be detained thereafter unless, before the expiration of that period, he has become liable to be detained by virtue of

a subsequent application, order or direction under any of the following provisions of this Act.

26 Admission for treatment

- (1) A patient may be admitted to a hospital, and there detained 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 the following provisions of this section.
- (2) An application for admission for treatment may be made in respect of a patient on the grounds—
 - (a) that he is suffering from mental disorder, being—
 - (i) in the case of a patient of any age, mental illness or severe subnormality;
 - (ii) in the case of a patient under the age of twenty-one years, psychopathic disorder or subnormality; and that the said disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment under this section ; and
 - (b) that it is necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should be so detained.
- (3) An application for admission for treatment shall be founded on the written recommendations in the prescribed form of two medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in paragraphs (a) and (b) of subsection (2) of this section 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 the said paragraph (a); and
 - (b) a statement of the reasons for that opinion so far as it relates to the conditions set out in the said paragraph (b), specifying whether other methods of dealing with the patient are available, and if so why they are not appropriate.
- (4) An application for admission for treatment, and any recommendation given for the purposes of such an application, may describe the patient as suffering from more than one of the forms of mental disorder referred to in subsection (2) of this section; but the application shall be of no effect unless the patient is described in each of the recommendations as suffering from the same one of those forms of mental disorder, whether or not he is also described in either of those recommendations as suffering from another of those forms.
- (5) An application for admission for treatment made on the ground that the patient is suffering from psychopathic disorder or subnormality, and no other form of mental disorder referred to in subsection (2) of this section, 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 be under the age of twenty-one years.

27 General provisions as to applications

- (1) Subject to the provisions of this section, an application for the admission of a patient for observation or for treatment may be made either by the nearest relative of the patient or by a mental welfare officer; and every such application shall be addressed

to the managers of the hospital to which admission is sought and shall specify the qualification of the applicant to make the application.

- (2) An application for admission for treatment shall not be made by a mental welfare officer if the nearest relative of the patient has notified that officer, or the local health authority by whom that officer is appointed, that he objects to the application being-made, and, without prejudice to the foregoing provision, shall not be made by such an officer except after consultation with the person (if any) appearing to be the nearest relative of the patient unless it appears to that officer that in the circumstances such consultation is not reasonably practicable or would involve unreasonable delay.
- (3) No application for the admission of a patient shall be made by any person unless that person has personally seen the patient within the period of fourteen days ending with the date of the application.
- (4) An application for the admission of a patient shall be sufficient if the recommendations on which it is founded are given either as separate recommendations, each signed by a medical practitioner, or as a joint recommendation signed by two such practitioners.

28 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 at an interval of not more than seven days.
- (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 a local health authority 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 medical practitioner who has such previous acquaintance.
- (3) Where the application is for the admission of the patient to a hospital not being 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 five of the National Health Service Act, 1946 (which relates to accommodation for private patients).
- (4) 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 any of the following persons; that is to say—
 - (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 as aforesaid ;
 - (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) of this section, 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 such person as aforesaid, or of a practitioner by whom another medical recommendation is given for the purposes of the same application.

29 Admission for observation in case of emergency

- (1) In any case of urgent necessity, an application for admission for observation 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 a mental welfare officer or by any relative of the patient; and every such application shall include a statement (to be verified by the medical recommendation first referred to in subsection (3) of this section) that it is of urgent necessity for the patient to be admitted and detained under section twenty-five of this Act, and that compliance with the foregoing provisions of this Part of this Act relating to applications for admission for observation 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 twenty-five of this Act, given, if practicable, by a practitioner who has previous acquaintance with the patient and otherwise complying with the requirements of section twenty-eight of this Act so far as applicable to a single recommendation, but shall cease to have effect on the expiration of a period of seventy-two hours from the time when the patient is admitted to the hospital unless—
 - (a) the second medical recommendation required as aforesaid is given and received by the managers within that period; and
 - (b) that recommendation and the recommendation first referred to in this subsection together comply with all the requirements of the said section twenty-eight (other than the requirement as to the time of signature of the second recommendation).
- (4) In relation to an emergency application, section twenty-seven of this Act shall have effect as if in subsection (3) of that section for the words " fourteen days " there were substituted the words " three days ".

30 Applications in respect of patients already in hospital

- (1) An application for the admission of a patient to a hospital may be made under this Part of this Act—
 - (a) in any case, notwithstanding that the patient is already an in-patient in that hospital, not being liable to be detained in pursuance of an application under this Part of this Act;
 - (b) in the case of an application for admission for treatment, notwithstanding that the patient is for the time being liable to be detained in the hospital in pursuance of an application for his admission for observation;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, not being liable to be detained therein under this Part of this Act, it appears to the 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 three days beginning with the day on which the report is so furnished.

31 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 foregoing 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 fourteen days beginning with the date on which the patient was last examined by a medical practitioner before giving a medical recommendation for the purposes of the application;
 - (b) in the case of an emergency application, the period of three days beginning with the date on which the patient was examined by the practitioner giving the medical recommendation first referred to in subsection (3) of section twenty-nine of this Act, or with the date of the application, whichever is the earlier.
- (2) Where a patient is admitted within the said, period to the hospital specified in such an application as aforesaid, or, being within that hospital, is treated by virtue of section thirty of this Act 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 therein.
- (4) A patient who is admitted to a hospital in pursuance of an application for admission for treatment may apply to a Mental Health Review Tribunal within the period of six months beginning with the day on which he is so admitted, or with the day on which he attains the age of sixteen years, whichever is the later.
- (5) 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.

32 Rectification of application and recommendations

- (1) If within the period of fourteen days beginning with the day on which a patient has been admitted to a hospital in pursuance of an application for admission for observation 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 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.

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

- (2) Without prejudice to the provisions of the foregoing subsection, if within the period therein mentioned 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) of this section 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 subsection (4) of section twenty-six of this Act.
- (4) Nothing in this section shall be construed as authorising the giving of notice in respect of an application made as an emergency application under section twenty-nine of this Act, or the detention of a patient admitted in pursuance of such an application, after the period of seventy-two hours referred to in subsection (3) of that section, unless the conditions set out in paragraphs (a) and (b) of that subsection are complied with or would be complied with apart from any error or defect to which this section applies.

Procedure for reception into guardianship

33 Application for guardianship

- (1) A patient 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 the following provisions of this section.
- (2) A guardianship application may be made in respect of a patient on the grounds—
- (a) that he is suffering from mental disorder, being—
 - (i) in the case of a patient of any age, mental illness or severe subnormality;
 - (ii) in the case of a patient under the age of twenty-one years, psychopathic disorder or sub-normality ;
 and that his disorder is of a nature or degree which warrants the reception of the patient into guardianship under this section; and
 - (b) that it is necessary in the interests of the patient or for the protection of other persons that the patient should be so received.
- (3) The person named as guardian in a guardianship application may be either a local health authority or any other person (including the applicant himself); but a guardianship application in which a person other than a local health authority is named

as guardian shall be of no effect unless it is accepted on behalf of that person by the local health authority for the area in which he resides.

- (4) Every such application shall be forwarded to the local health authority therein named as guardian, or, as the case may be, to the local health authority for the area in which the person so named resides, and, except where the person so named is the local health authority, shall be accompanied by a statement in writing by the person so named that he is willing to act as guardian.
- (5) Subsections (3) to (5) of section twenty-six and sections twenty-seven and twenty-eight of this Act shall apply in relation to a guardianship application as they apply in relation to an application for admission for treatment, but subject to the following modifications, that is to say—
 - (a) in section twenty-six, references to subsection (2) of that section, and to paragraph (a) or paragraph (b) of that subsection, shall be construed as references to subsection (2) of this section and to paragraph (a) or paragraph (b) of that subsection, and in paragraph (b) of subsection (3) of that section the words from " specifying " to the end of the paragraph shall be omitted;
 - (b) in subsection (1) of section twenty-seven, the words " shall be addressed to the managers of the hospital to which admission is sought, and " shall be omitted;
 - (c) subsection (3) of section twenty-eight shall be omitted and for paragraph (e) of subsection (4) of that section there shall be substituted the following paragraph:—
 - “(e) the person named as guardian in the application”.

34 Effect of guardianship application, etc.

- (1) Where a guardianship application, duly made under the foregoing provisions of this Act and forwarded to the local health authority within the period allowed by subsection (2) of this section, is accepted by that authority, the application shall, subject to regulations made by the Minister, confer on the authority or person therein named as guardian, to the exclusion of any other person, all such powers as would be exercisable by them or him in relation to the patient if they or he were the father of the patient and the patient were under the age of fourteen years.
- (2) The period within which a guardianship application is required for the purposes of this section to be forwarded to the local health authority is the period of fourteen days beginning with the date on which the patient was last examined by a 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 therein.
- (4) If within the period of fourteen days beginning with the day on which a guardianship application has been accepted by the local health 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 recommendation

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

- (5) A patient who is received into guardianship in pursuance of a guardianship application may apply to a Mental Health Review Tribunal within the period of six months beginning with the day on which the application is accepted, or with the day on which he attains the age of sixteen years, whichever is the later.
- (6) 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.

Care and treatment of patients

35 Regulations as to guardianship

- (1) Subject to the provisions of this Part of this Act, the Minister may make regulations for regulating the exercise by the guardians of patients received into guardianship under this Part of this Act of their powers as such, and for imposing on such guardians, and upon local health authorities in the case of patients under the guardianship of persons other than local health 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 health 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 health authority, of a medical practitioner to act as the nominated medical attendant of the patient.

36 Correspondence of patients

- (1) Any postal packet addressed to a patient detained in a hospital under this Part of this Act may be withheld from the patient if, in the opinion of the responsible medical officer, the receipt of the packet would be calculated to interfere with the treatment of the patient or to cause him unnecessary distress; and any packet so withheld shall, if the name and address of the sender are sufficiently identified therein, be returned to him by post.
- (2) Subject to the provisions of this section, any postal packet addressed by a patient so detained and delivered by him for dispatch may be withheld from the Post Office—
 - (a) if the addressee has given notice in writing to the managers of the hospital or to the responsible medical officer requesting that communications addressed to him by the patient should be withheld; or
 - (b) if it appears to that officer that the packet would be unreasonably offensive to the addressee, or is defamatory of other persons (other than persons on the staff of the hospital) or would be likely to prejudice the interests of the patient:

Provided that this subsection does not apply to any postal packet addressed as follows, that is to say—

- (i) to the Minister;
- (ii) to any Member of the Commons House of Parliament;

- (iii) to the Master or Deputy Master or any other officer of the Court of Protection;
- (iv) to the managers of the hospital;
- (v) to any other authority or person having power to discharge the patient under this Part of this Act;
- (vi) at any time when the patient is entitled to make application to a Mental Health Review Tribunal, to that tribunal,

and regulations made by the Minister may except from this subsection, subject to such conditions or limitations (if any) as may be prescribed by the regulations, postal packets addressed to such other classes of person as may be so prescribed.

- (3) Nothing in paragraph (b) of subsection (2) of this section shall be construed as authorising a responsible medical officer to open or examine the contents of any postal packet unless he is of opinion that the patient is suffering from mental disorder of a kind calculated to lead him to send such communications as are referred to in that paragraph.
- (4) Except as provided by this section, it shall not be lawful to prevent or impede the delivery to a patient detained as aforesaid of any postal packet addressed to him and delivered by the Post Office, or the delivery to the Post Office of any postal packet addressed by such a patient and delivered by him for dispatch.
- (5) This section shall apply in relation to a patient who is subject to guardianship under this Part of this Act as it applies in relation to a patient who is detained in a hospital thereunder, and as if—
 - (a) for any reference to the managers of the hospital there were substituted a reference to the guardian ; and
 - (b) for any reference to the responsible medical officer there were substituted a reference to the guardian or any person authorised by the guardian to act for the purposes of this subsection.
- (6) In this section "postal packet" has the same meaning as in the Post Office Act, 1953; and the provisions of this section shall have effect notwithstanding anything in section fifty-six of that Act.

37 Visiting and examination of patients

- (1) For the purpose of advising whether an application to a Mental Health Review Tribunal should be made by or in respect of a patient who is liable to be detained or subject to guardianship under this Part of this Act, or of furnishing information as to the condition of a patient for the purposes of such an application, or of advising as to the exercise by the nearest relative of any such patient of any power to order his discharge, any medical practitioner authorised by or on behalf of the patient or other person who is entitled to make or has made the application, or by the nearest relative of the patient, as the case may be, may, at any reasonable time, visit the patient and examine him in private.
- (2) Where application is made to a registration authority or regional hospital board 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—
 - (a) any medical practitioner authorised by that authority or board; and
 - (b) any other person (whether a medical practitioner or not) authorised under Part III of this Act to inspect the home,

may at any reasonable time visit the patient and interview him in private.

- (3) Any person authorised for the purposes of subsection (2) of this section 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, being a medical practitioner, may examine the patient in private, and may require the production of and inspect any other medical records relating to the treatment of the patient in the home.

38 Re-classification 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 responsible 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 therein.
- (2) Where a report is furnished under this section, in respect of a patient who has attained the age of sixteen years, the managers or guardian shall cause the patient and the nearest relative to be informed, and the patient or that relative may, within the period of twenty-eight days beginning with the day on which he is so informed, apply to a Mental Health Review Tribunal.
- (3) In relation to a patient who is subject to the guardianship of a person other than a local health authority, this section shall have effect as if for any reference to the responsible medical officer there were substituted a reference to the nominated medical attendant of the patient.

39 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.
- (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) of this section, 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) of this section 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.

40 Return and re-admission 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 thirty-nine of this Act; 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 thereunder; 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 mental welfare officer, 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 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 health authority, by any constable, or by any person authorised in writing by the guardian or a local health authority.

- (3) A patient shall not be taken into custody under this section after the expiration of the following period (beginning with the first day of his absence without leave), that is to say—

- (a) in the case of a patient over the age of twenty-one years on that day 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, and is so liable or subject as a psychopathic or subnormal patient, six months ;
- (b) in any other case, twenty-eight days ;

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.

- (4) 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 kindred expressions shall be construed accordingly.

41 Regulations as to transfer of patients

- (1) In such circumstances and subject to such conditions as may be prescribed by regulations made by the Minister—
 - (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 health 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 health authority or other person by virtue of an application under this Part of this Act may be transferred into the guardianship of another local health 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) where the patient, being liable to be detained in a hospital by virtue of an application for admission for observation or for treatment, 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) where the patient, being liable to be detained as aforesaid, is transferred into guardianship, as if the application were a guardianship application duly accepted at the time aforesaid;
 - (c) where the patient, being subject to guardianship by virtue of a guardianship application, 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) where the patient, being subject to guardianship as aforesaid, is transferred to a hospital, as if the guardianship application were an application for admission to that hospital (being an application for admission 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 the foregoing provisions of this section, any patient who is for the time being liable to be detained under this Part of this Act in a hospital vested in the Minister under the National Health Service Act, 1946, or any accommodation used under Part II 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) of this section 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) of this section.
- (5) A patient who, having attained the age of sixteen years, is transferred from guardianship to a hospital in pursuance of regulations made under this section may, within the period of six months beginning with the day on which he is so transferred, apply to a Mental Health Review Tribunal.

42 Transfer of guardianship in case of death, incapacity, etc., of guardian

- (1) If any person (other than a local health authority) having the guardianship of a patient received into guardianship under this Part of this Act—
 - (a) dies; or
 - (b) gives notice-in writing to the local health authority that he desires to relinquish the functions of guardian,the guardianship of the patient shall thereupon vest in the local health authority, but without prejudice to any power to transfer the patient into the guardianship of another person in pursuance of regulations under section forty-one of this Act.
- (2) If any such person, not having given notice under paragraph (b) of subsection (1) of this section, 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 health authority or by any other person approved for the purpose by that authority.
- (3) If it appears to the county court, upon application made by a mental welfare officer, that any person other than a local health 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 patient, the court may order that the guardianship of the patient be transferred to the local health 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 health authority or other person by or under this section, paragraph (c) of subsection (2) of section forty-one of this Act shall apply as if the patient had been transferred into the guardianship of that authority or person in pursuance of regulations under that section.

*Duration of authority for detention or guardianship and discharge of patients***43 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 one year 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 the following provisions of this section.
- (2) Authority for the detention or guardianship of a patient may, unless the patient has previously been discharged, be renewed under this section—
 - (a) from the expiration of the period referred to in subsection (1) of this section, for a further period of one year;
 - (b) from the expiration of any period of renewal under paragraph (a) of this subsection, for a further period of two years,and so on for periods of two years 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 to examine the patient; and if it appears to him that it is necessary in the Interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained, he shall furnish to the managers of the hospital where the patient is liable to be detained a report to that effect in the prescribed form.

- (4) 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—
 - (a) where the patient is subject to the guardianship of a local health authority, of the responsible medical officer ;
 - (b) in any other case, of the nominated medical attendant of the patient,
 to examine the patient; and, if it appears to him that it is necessary in the interests of the patient or for the protection of other persons that the patient should remain under guardianship, he shall furnish to the guardian and, where the guardian is a person other than a local health authority, to the responsible local health authority a report to that effect in the prescribed form.
- (5) Where a report is duly furnished under subsection (3) or subsection (4) of this section, the authority for the detention or guardianship of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) of this section.
- (6) Where a report under this section is furnished in respect of a patient who has attained the age of sixteen years, the managers or the local health authority, as the case may be, shall, unless they discharge the patient, cause him to be informed, and the patient may, within the period for which the authority for his detention or guardianship is renewed by virtue of the report, apply to a Mental Health Review Tribunal.

44 Special provisions as to psychopathic and subnormal patients

- (1) Notwithstanding anything in section forty-three of this Act, a patient who is subject to guardianship by virtue of a guardianship application as a psychopathic or subnormal patient shall cease to be so subject on attaining the age of twenty-five years; and a patient who is liable to be detained by virtue of an application for admission for treatment as a psychopathic or subnormal patient shall cease to be so liable on attaining that age unless the authority for his detention is renewed under the following provisions of this section.
- (2) Within the period of two months ending on the day on which a patient would cease under this section to be liable to be detained in a hospital in default of the renewal of the authority for his detention, the responsible medical officer shall examine the patient, and if it appears to him that the patient, if released from the hospital upon attaining the age of twenty-five years, would be likely to act in a manner dangerous to other persons or to himself, shall furnish to the managers a report to that effect in the prescribed form; and where a report is duly furnished under this subsection the authority for the detention of the patient shall be thereby renewed, and shall continue in force accordingly after the patient attains the said age, but without prejudice to the application to the patient of the provisions of section forty-three of this Act.
- (3) Where a report under subsection (2) of this section is furnished in respect of a patient, the managers shall cause the patient and the nearest relative of the patient to be informed, and the patient and that relative may, at any time before the expiration of the period of twenty-eight days beginning with the day on which the patient attains the age of twenty-five years, apply to a Mental Health Review Tribunal.

45 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 forty of this Act, 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 returned or returns himself as aforesaid within the period first mentioned in the foregoing paragraph, until the expiration of the period of one week beginning with the day on which he is returned or returns as aforesaid.
- (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 subsection (3) or subsection (4) of section forty-three or subsection (2) of section forty-four of this Act 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 forty-three or section forty-four of this Act, the renewal shall take effect as from that day.

46 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.
- (2) Where any such patient is detained in custody as aforesaid but the application does not cease to have effect under subsection (1) of this section, then—
 - (a) if apart from this subsection the patient would have ceased to be liable to be detained or subject to guardianship as aforesaid 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 forty and forty-five of this Act shall apply in relation to the patient as if he had absented himself without leave on that day.

47 Discharge of patients

- (1) Subject to the provisions of this and the next following section, 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 the following provisions of this section.
- (2) An order for discharge may be made in respect of a patient—

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- (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for observation, by the responsible medical officer or by the managers of the hospital;
 - (b) where the patient is liable to be so detained in pursuance of an application for admission for treatment, by the responsible medical officer, by the managers or by the nearest relative of the patient; and
 - (c) where the patient is subject to guardianship, by the responsible medical officer, by the responsible local health 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 observation or for treatment, an order for his discharge may, without prejudice to subsection (2) of this section, be made by the registration authority within the meaning of Part III of this Act and, if the patient is maintained under a contract with a regional hospital board, by that board.
- (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.

48 Restrictions on discharge by nearest relative

- (1) Where a report under subsection (2) of section forty-four of this Act has been furnished in respect of a patient, an order for discharge shall not be made by the nearest relative of the patient during the period of six months beginning with the date of the report.
- (2) 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 seventy-two hours' notice in writing to the managers of the hospital; and if, within seventy-two 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.
- (3) In any case where a report under subsection (2) of this section is furnished in respect of a patient, the managers shall cause the nearest relative of the patient to be informed, and that relative may, within the period of twenty-eight days beginning with the day on which he is so informed, apply to a Mental Health Review Tribunal in respect of the patient

Functions of relatives of patients

49 Definition of relative and nearest relative

- (1) In this Part of this Act "relative", means any of the following, that is to say—
- (a) husband or wife;
 - (b) son or daughter ;
 - (c) father;
 - (d) mother;

- (e) brother or sister ;
 - (f) grandparent;
 - (g) grandchild;
 - (h) uncle or aunt;
 - (i) nephew or niece.
- (2) In deducing relationships for the purposes of this section, an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person; and subject as aforesaid, 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) of this section who is for the time being surviving, relatives of 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) Where the person who, under subsection (3) of this section, would be the nearest relative of a patient—
- (a) is not ordinarily resident within the United Kingdom; or
 - (b) being the husband or wife of the patient, 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) not being the husband, wife, father or mother of the patient, is for the time being under twenty-one years of age; or
 - (d) is a man against whom an order divesting him of authority over the patient has been made under section thirty-eight of the Sexual Offences Act, 1956 (which relates to incest with a girl under twenty-one) and has not been rescinded,
- the nearest relative of the patient shall be ascertained as if that person were dead.
- (5) In this section " adoption order " means an order for the adoption of any person made under Part I of the Adoption Act, 1958, or any previous enactment relating to the adoption of children, or any corresponding enactment of the Parliament of Northern Ireland, and " court " includes a court in Scotland or Northern Ireland.
- (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 (4) of this section.

50 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—

- (a) section seventy-five of the Children and Young Persons Act, 1933 (which relates to children and young persons committed to the care of fit persons under that Act);

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- (b) section seventy-nine of the Children and Young Persons (Scotland) Act, 1937 (which makes corresponding provision in Scotland); or
- (c) section three of the Children Act, 1948 (which relates to children in respect of whom parental rights have been assumed under section two of that Act),

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 (2) of the said section three, any parent of the patient not being the person on whose account the resolution mentioned in that subsection was passed.

51 Nearest relative of infant under guardianship, etc.

- (1) Where a patient who has not attained the age of twenty-one 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 infants (including an order under section thirty-eight 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 not being 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 as aforesaid ; or
 - (b) is, by virtue of an order made by a court in the exercise of such jurisdiction as aforesaid 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 (4) of section forty-nine of this Act 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 thirty-four of this Act.
- (4) In this section " court" includes a court in Scotland or Northern Ireland, and " enactment " includes an enactment of the Parliament of Northern Ireland.

52 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 under this Part of this Act of the nearest relative of the patient 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—
 - (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) a mental welfare officer,

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

but in relation to an application made by such an officer subsection (1) of this section shall have effect as if for the words " the applicant" there were substituted the words " the local health 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 observation, an application under this section, being an application made on the ground specified in paragraph (c) or paragraph (d) of the last foregoing subsection, 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) While an order made under this section is in force, the provisions of this Part of this Act (other than this and the next following section) 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 the next following section) 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.

(6) Where an order is made under this section in respect of a patient who is or subsequently becomes liable to be detained or subject to guardianship under this Part of this Act, the nearest relative of the patient may make an application to a Mental Health Review Tribunal in respect of the patient within the period of twelve months beginning with the date of the order, and in any subsequent period of twelve months during which the order continues in force.

53 Discharge and variation of orders under s. 52

(1) An order made under section fifty-two of this Act in respect of a patient may be discharged by the county court upon application made—

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

- (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 subsection (3) of the said section fifty-two, 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 the said section fifty-two 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 a mental welfare officer, by substituting for the first-mentioned person a local health 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 the said section fifty-two dies, the foregoing provisions of this section shall apply as if for any reference to that person there were substituted a reference to any relative of the patient, and until the order is discharged or varied under those provisions the functions of the nearest relative under this Part of this Act shall not be exercisable by any person.
- (4) An order under section fifty-two of this Act shall, unless previously discharged under subsection (1) of this section, cease to have effect—
 - (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 subject to guardianship under this Part of this Act, 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 forty-one of this Act);
 - (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 the said section fifty-two shall not affect the validity of anything previously done in pursuance of the order.

Supplemental

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

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

section thirty-three of this Act, or as restricting the power of a mental welfare officer to make any application under this Act.

55 Procedure on applications to county court

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

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

56 Regulations for purposes of Part IV

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

and for the purposes of this Part of this Act any application, report or notice the service of which is regulated under paragraph (b) of this subsection shall be deemed to have been received by or furnished to the authority or person to whom it is authorised or

required to be furnished, addressed or given if it is duly served in accordance with the regulations.

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

57 Power of Minister to refer to Tribunal

The Minister may, if he thinks fit, at any time refer to a Mental Health Review Tribunal the case of any patient who is liable to be detained or subject to guardianship under this Part of this Act.

58 Special provisions as to wards of court

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

59 Interpretation of Part IV

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

" the managers " means—

- (a) in relation to a hospital vested in the Minister under the National Health Service Act, 1946, and in relation to any accommodation provided by a local authority and used for hospital and specialist services under Part II of that Act, the hospital management committee or board of governors ;
- (b) in relation to a special hospital, the Minister;
- (c) in relation to a mental nursing home registered in pursuance of Part III of this Act, the person or persons registered in respect of the home;

" the nominated medical attendant ", in relation to a patient who is subject to the guardianship of a person other than a local health authority, means the person appointed in pursuance of regulations made under subsection (2) of section thirty-five of this Act to act as the medical attendant of the patient;

" the responsible medical officer " means—

- (a) in relation to a patient liable to be detained by virtue of an application for admission for observation or an application for admission for treatment, the medical practitioner in charge of the treatment of the patient;

- (b) in relation to a patient subject to guardianship, the medical officer of health of the responsible local health authority or any other medical officer authorised by that authority to act (either generally or in any particular case or for any particular purpose) as the responsible medical officer.
- (2) Except where otherwise expressly provided, this Part, of this Act applies in relation to a mental nursing home, being a home in respect of which the particulars of registration are for the time being entered in the separate part of the register kept for the purposes of subsection (1) of section fifteen of this Act, as it applies in relation to a hospital, and references in this Part of this Act to a hospital, and any reference in this Act to a hospital to which this Part of this Act applies, shall be construed accordingly.
- (3) For the purposes of this Part of this Act a patient who is liable to be detained or subject to guardianship by virtue of an application for admission for treatment or a guardianship application shall be treated as being so liable or subject as a psychopathic or subnormal patient if the form of disorder specified in the application, or in the application as amended under section thirty-eight of this Act, is psychopathic disorder or subnormality, or psychopathic disorder and subnormality, and no other form of mental disorder.
- (4) In relation to a patient who is subject to guardianship in pursuance of a guardianship application, any reference in this Part of this Act to the responsible local health authority is a reference—
 - (a) where the patient is subject to the guardianship of a local health authority, to that authority ;
 - (b) where the patient is subject to the guardianship of a person other than a local health authority, to the local health authority for the area in which that person resides.