



Mental Health Act 1959

1959 CHAPTER 72

PART IX

MISCELLANEOUS AND GENERAL

Powers and proceedings of Mental Health Review Tribunals

122 Applications to tribunals

- (1) Where, under any provision of this Act, an application to a Mental Health Review Tribunal is authorised to be made by or in respect of a patient, the application shall be made by notice in writing addressed to the tribunal for the area in which the hospital or nursing home in which the patient is detained is situated or in which the patient, is residing under guardianship, as the case may be.
- (2) Except in such cases and at such times as are expressly provided by this Act, no application shall be made to a Mental Health Review Tribunal by or in respect of a patient; and where, under any provision of this Act, any person is authorised to make an application to such a tribunal within a specified period, not more than one such application shall be made by that person within that period.

123 Powers of tribunals

- (1) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is liable to be detained under this Act, the tribunal may in any case direct that the patient be discharged, and shall so direct if they are satisfied—
 - (a) that he is not then suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; or
 - (b) that it is not 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; or

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- (c) in the case of an application under subsection (3) of section forty-four or subsection (3) of section forty-eight of this Act, that the patient, if released, would not be likely to act in a manner dangerous to other persons or to himself.
- (2) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is subject to guardianship under this Act, the tribunal may in any case direct that the patient be discharged, and shall so direct if they are satisfied—
 - (a) that he is not then suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; or
 - (b) that it is not necessary in the interests of the patient, or for the protection of other persons, that the patient should remain under such guardianship.
- (3) Where application is made to a Mental Health Review Tribunal under any provision of this Act by or in respect of a patient and the tribunal do not direct that the patient be discharged, the tribunal may, if satisfied that the patient is suffering from a form of mental disorder other than the form specified in the relevant application, order or direction, direct that that application, order or direction be amended by substituting for the form of mental disorder specified therein such other form of mental disorder as appears to the tribunal to be appropriate.
- (4) This section applies in relation to any reference to a Mental Health Review Tribunal made by the Minister under section fifty-seven of this Act as it applies in relation to an application made to such tribunal by or in respect of a patient, but does not apply in relation to any reference by the Secretary of State under subsection (6) of section sixty-six of this Act.

124 Rules as to procedure

- (1) The Lord Chancellor may make rules with respect to the making of applications to Mental Health Review Tribunals, and with respect to the proceedings of such tribunals and matters incidental to or consequential on such proceedings.
- (2) Rules made under this section may in particular make provision—
 - (a) for enabling a tribunal, or the chairman of a tribunal, to postpone the consideration of any application by or in respect of a patient, or of any such application of any specified class, until the expiration of such period (not exceeding twelve months) as may be specified in the rules from the date on which an application by or in respect of the same patient was last considered and determined by that or any other tribunal under this Act;
 - (b) for the transfer of proceedings from one tribunal to another in any case where, after the making of the application, the patient is removed out of the area of the tribunal to which it was made ;
 - (c) for restricting the persons qualified to serve as members of a tribunal for the consideration of any application, or of an application of any specified class;
 - (d) for enabling a tribunal to dispose of an application without a formal hearing where such a hearing is not requested by the applicant or it appears to the tribunal that such a hearing would be detrimental to the health of the patient;
 - (e) for enabling a tribunal to exclude members of the public, or any specified class of members of the public, from any proceedings of the tribunal, or to prohibit the publication of reports of any such proceedings or the names of any persons concerned in such proceedings ;

- (f) for regulating the circumstances in which, and the persons by whom, applicants and patients in respect of whom applications are made to a tribunal may, if not desiring to conduct their own case, be represented for the purposes of those applications ;
 - (g) for regulating the methods by which information relevant to an application may be obtained by or furnished to the tribunal, and in particular for authorising the members of a tribunal, or any one or more of them, to visit and interview in private any patient by or in, respect of whom an application has been made;
 - (h) for making available to any applicant, and to any patient in respect of whom an application is made to a tribunal, copies of any documents obtained by or furnished to the tribunal in connection with the application, and a statement of the substance of any oral information so obtained or furnished except where the tribunal considers it undesirable in the interests of the patient or for other special reasons;
 - (i) for requiring a tribunal, if so requested in accordance with the rules, to furnish such statements of the reasons for any decision given by the tribunal as may be prescribed by the rules, subject to any provision made by the rules for withholding such a statement from a patient or any other person in cases where the tribunal considers that furnishing it would be undesirable in the interests of the patient or for other special reasons;
 - (j) for conferring on the tribunals such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of their functions under this Act.
- (3) The foregoing provisions of this section apply in relation to references to Mental Health Review Tribunals as they apply in relation to applications to such tribunals by or in respect of patients.
- (4) Rules under this section may be so framed as to apply to all applications or references or to applications or references of any specified class and may make different provision in relation to different cases.
- (5) A Mental Health Review Tribunal may, and if so required by the High Court shall, state in the form of a special case for determination by the High Court any question of law which may arise before them.
- (6) The Arbitration Act, 1950, shall not apply to any proceedings before a Mental Health Review Tribunal except so far as any provisions of that Act may be applied, with or without modifications, by rules made under this section.

Offences

125 Forgery, false statements, etc.

- (1) Any person who, with intent to deceive, forges any of the following documents, that is to say,—
- (a) any application under Part IV of this Act;
 - (b) any medical recommendation or report under this Act; or
 - (c) any other document required or authorised to be made for any of the purposes of this Act,

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or who uses, allows another person to use or makes or has in his possession any such document which he knows to have been forged or any document so closely resembling any such document as to be calculated to deceive, shall be guilty of an offence.

- (2) Any person who wilfully makes a false entry or statement in any application, recommendation, report, record or other document required or authorised to be made for any of the purposes of this Act or, with intent to deceive, makes use of any such entry or statement which he knows to be false, shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both", or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) In this section "forge" has the same meaning as in the Forgery Act, 1913.

126 Ill-treatment of patients

- (1) It shall be an offence for any person being an officer on the staff of or otherwise employed in, or being one of the managers of, a hospital or mental nursing home—
 - (a) to ill-treat or wilfully neglect a patient for the time being receiving treatment for mental disorder as an in-patient in that hospital or home ; or
 - (b) to ill-treat or wilfully neglect, on the premises of which the hospital or home forms part, a patient for the time being receiving such treatment there as an out-patient.
- (2) It shall be an offence for any individual to ill-treat or wilfully neglect a mentally disordered patient who is for the time being subject to his guardianship under this Act or otherwise in his custody or care (whether by virtue of any legal or moral obligation or otherwise).
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both ;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

127 Amendment of Sexual Offences Act, 1956

- (1) The Sexual Offences Act, 1956, shall be amended as follows:—
 - (a) for section seven there shall be substituted the following section:—

“7 Intercourse with defective.

- (1) It is an offence, subject to the exception mentioned in this section, for a man to have unlawful sexual intercourse with a woman who is a defective.

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- (2) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a woman if he does not know and has no reason to suspect her to be a defective.”;
- (b) for section forty-five there shall be substituted the following section:—

“45 Meaning of ' defective ' .

In this Act defective means a person suffering from severe subnormality within the meaning of the Mental Health Act, 1959.”;

and section eight of that Act shall cease to have effect.

- (2) An order under section thirty-eight of the said Act made on conviction of an offence against a girl under the age of twenty-one who is a defective within the meaning of that Act may, so far as it has effect for any of the purposes of this Act, be rescinded under that section either before or after the girl has attained that age.

128 Sexual intercourse with patients

- (1) Without prejudice to section seven of the Sexual Offences Act, 1956, it shall be an offence, subject to the exception mentioned in this section,—
- (a) for a man who is an officer on the staff of or is otherwise employed in, or is one of the managers of, a hospital or mental nursing home to have unlawful sexual intercourse with a woman who is for the time being receiving treatment for mental disorder in that hospital or home, or to have such intercourse on the premises of which the hospital or home forms part with a woman who is for the time being receiving such treatment there as an out-patient;
- (b) for a man to have unlawful sexual intercourse with a woman who is a mentally disordered patient and who is subject to his guardianship under this Act or is otherwise in his custody or care under this Act or in pursuance of arrangements under the National Health Service Act, 1946, or Part III of the National Assistance Act, 1948, or as a resident in a residential home for mentally disordered persons within the meaning of Part III of this Act.
- (2) It shall not be an offence under this section for a man to have sexual intercourse with a woman if he does not know and has no reason to suspect her to be a mentally disordered patient.
- (3) Any person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.
- (4) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.
- (5) This section shall be construed as one with the Sexual Offences Act, 1956; and section forty-seven of that Act (which relates to the proof of exceptions) shall apply to the exception mentioned in this section.

129 Assisting patients to absent themselves without leave, etc.

- (1) Any person who induces or knowingly assists any other person—

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- (a) being liable to be detained in a hospital within the meaning of Part IV of this Act, or being subject to guardianship under this Act, to absent himself without leave; or
- (b) being in legal custody by virtue of section one hundred and thirty-nine of this Act, to escape from such custody;

shall be guilty of an offence.

- (2) Any person who knowingly harbours a patient who is absent without leave or is otherwise at large and liable to be retaken under this Act, or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody or returned to the hospital or other place where he ought to be, shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both ;
 - (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both.

130 Obstruction

- (1) Any person who refuses to allow the inspection of any premises, or without reasonable cause refuses to allow the visiting, interviewing or examination of any person by a person authorised in that behalf by or under this Act or to produce for the inspection of any person so authorised any document or record the production of which is duly required by him, or otherwise obstructs any such person in the exercise of his functions, shall be guilty of an offence.
- (2) Without prejudice to the generality of the foregoing subsection, any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private, shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

131 Prosecutions by local authorities

- (1) A local health authority may institute proceedings for any offence under this Part of this Act, but without prejudice to any provision of this Part of this Act requiring the consent of the Director of Public Prosecutions for the institution of such proceedings.
- (2) In relation to an offence under section one hundred and thirty of this Act in connection with the inspection of any premises, or the visiting, interviewing or examination of any patient, by a person authorised in that behalf by a registration authority within the meaning of Part III of this Act, subsection (1) of this section shall have effect as if the reference to a local health authority included a reference to that authority.

Miscellaneous provisions

132 Notification of hospitals having arrangements for reception of urgent cases

It shall be the duty of every Regional Hospital Board to give notice to every local health authority for an area wholly or partly comprised within the area of the Board

specifying the hospital or hospitals administered by the Board in which arrangements are from time to time in force for the reception, in case of special urgency, of patients requiring treatment for mental disorder.

133 Provision of pocket money for in-patients in hospital

- (1) The Minister may pay to persons who are receiving treatment as in-patients (whether liable to be detained or not) in special hospitals or other hospitals, being hospitals wholly or mainly used for the treatment of persons suffering from mental disorder, such amounts as he thinks fit in respect of their occasional personal expenses where it appears to him that they would otherwise be without resources to meet those expenses.
- (2) For the purposes of the National Health Service Act, 1946, the making of payments under this section to persons for whom hospital and specialist services are provided under Part II of that Act shall be treated as included among those services.
- (3) In the application of this section to Scotland—
 - (a) for any reference to the Minister there shall be substituted a reference to the Secretary of State;
 - (b) for the words from " special hospitals " to " mental disorder " there shall be substituted the words " institutions to which section ninety-one of this Act applies ";
 - (c) for the reference to the National Health Service Act, 1946, there shall be substituted a reference to the National Health Service (Scotland) Act, 1947.

134 Correspondence of patients not subject to detention

- (1) Section thirty-six of this Act shall apply in relation to any patient who is receiving treatment for mental disorder in a hospital or mental nursing home, having been admitted for that purpose but not being liable to be detained therein, as it applies in relation to a patient detained in a hospital under Part IV of this Act.
- (2) In relation to any patient to whom it applies by virtue of this section, the said section thirty-six shall have effect as if for any reference to the responsible medical officer there were substituted a reference to the medical practitioner in charge of the treatment of the patient.

135 Warrant to search for and remove patients

- (1) If it appears to a justice of the peace, on information on oath laid by a mental welfare officer, that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—
 - (a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice, or
 - (b) being unable to care for himself, is living alone in any such place,the justice may issue a warrant authorising any constable named therein to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove him to a place of safety with a view to the making of an application in respect of him under Part IV of this Act, or of other arrangements for his treatment or care.
- (2) If it appears to a justice of the peace, on information on oath laid by any constable or other person who is authorised by or under this Act to take a patient to any place,

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or to take into custody or retake a patient who is liable under this Act to be so taken or retaken,—

- (a) that there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and
- (b) that admission to the premises has been refused or that a refusal of such admission is apprehended,

the justice may issue a warrant authorising any constable named therein to enter the premises, if need be by force, and remove the patient.

- (3) A patient who is removed to a place of safety in the execution of a warrant issued under this section may be detained there for a period not exceeding seventy-two hours.
- (4) In the execution" of a warrant issued under subsection (1) of this section, the constable to whom it is addressed shall be accompanied by a mental welfare officer and by a medical practitioner, and in the execution of a warrant issued under subsection (2) of this section the constable to whom it is addressed may be accompanied—
 - (a) by a medical practitioner;
 - (b) by any person authorised by or under this Act to take or retake the patient.
- (5) It shall not be necessary in any information or warrant under subsection (1) of this section to name the patient concerned.
- (6) In this section " place of safety" means residential accommodation provided by a local authority under Part III of the National Health Service Act, 1946, or under Part III of the National Assistance Act, 1948, a hospital as defined by this Act, a police station, a mental nursing home or residential home for mentally disordered persons or any other suitable place the occupier of which is willing temporarily to receive the patient.

136 Mentally disordered persons found in public places

- (1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety within the meaning of the last foregoing section.
- (2) A person removed to a place of safety under this section may be detained there for a period not exceeding seventy-two hours for the purpose of enabling him to be examined by a medical practitioner and to be interviewed by a mental welfare officer and of making any necessary arrangements for his treatment or care.

137 Amendment of provisions as to members of Parliament

- (1) The following provisions shall have effect in substitution for the provisions of the Lunacy (Vacating of Seats) Act, 1886.
- (2) Where a member of the House of Commons is authorised to be detained on the ground (however formulated) that he is suffering from mental illness, it shall be the duty of the court, authority or person on whose order or application, and of any medical practitioner upon whose recommendation or certificate, the detention was authorised, and of the person in charge of the hospital or other place in which the member is authorised to be detained, to notify the Speaker of the House of Commons that the detention has been authorised.

- (3) Where the Speaker receives a notification under the foregoing subsection, or is notified by two members of the House of Commons that they are credibly informed that such an authorisation has been given, the Speaker shall cause the member to whom the notification relates to be visited and examined by two medical practitioners appointed as follows, that is to say—
- (a) where the member is to be visited in England and Wales or in Northern Ireland, by the President of the Royal College of Physicians of London ;
 - (b) where the member is to be visited in Scotland, by the President of the Royal College of Physicians of Edinburgh and the President of the Royal Faculty of Physicians and Surgeons of Glasgow, acting jointly,
- being in either case practitioners appearing to the President or Presidents to have special experience in the diagnosis or treatment of mental disorders; and the medical practitioners so appointed shall report to the Speaker whether the member is suffering from mental illness and is authorised to be detained as such.
- (4) If the report is to the effect that the member is suffering from mental illness and authorised to be detained as aforesaid, the Speaker shall at the expiration of six months from the date of the report, if the House is then sitting, and otherwise as soon as may be after the House next sits, again cause the member to be visited and examined by two such medical practitioners as aforesaid, and the medical practitioners shall report as aforesaid.
- (5) If the second report is that the member is suffering from mental illness and authorised to be detained as aforesaid, the Speaker shall forthwith lay both reports before the House of Commons, and thereupon the seat of the member shall become vacant.
- (6) This section shall apply in relation to the House of Commons of Northern Ireland as it applies in relation to the House of Commons and references therein to the Speaker shall be construed accordingly.

138 Pay, pensions, etc., of mentally disordered persons

- (1) Where a periodic payment falls to be made to any person by way of pay or pension or otherwise in connection with the service or employment of that or any other person, and the payment falls to be made directly out of moneys provided by Parliament or the Consolidated Fund, or other moneys administered by or under the control or supervision of a Government department, the authority by whom the sum in question is payable, if satisfied after considering medical evidence that the person to whom it is payable (hereinafter referred to as " the patient") is incapable by reason of mental disorder of managing and administering his property and affairs, may, instead of paying the-sum to the patient, apply it in accordance with the next following subsection.
- (2) The authority may pay the sum or such part thereof as they think fit to the institution or person having the care of the patient, to be applied for his benefit, and may pay the remainder (if any) or such part thereof as they think fit—
- (a) to or for the benefit of persons who appear to the authority to be members of the patient's family or other persons for whom the patient might be expected to provide if he were not mentally disordered, or
 - (b) in reimbursement, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not)

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or for the maintenance or other benefit of the patient or such persons as are mentioned in the foregoing paragraph.

- (3) In this section " Government department" does not include a department of the Government of Northern Ireland.

Supplemental

139 Provisions as to custody, conveyance and detention

- (1) Any person required or authorised by or by virtue of this Act to be conveyed to any place or to be kept in custody or detained in a place of safety or at any place to which he is taken under subsection (5) of section sixty-six of this Act shall, while being so conveyed, detained or kept, as the case may be, be deemed to be in legal custody.
- (2) A constable or any other person required or authorised by or by virtue of this Act to take any person into custody, or to convey or detain any person shall, for the purposes of taking him into custody or conveying or detaining him, have all the powers, authorities, protection and privileges which a constable has within the area for which he acts as constable.
- (3) In this section "convey" includes any other expression denoting removal from one place to another.

140 Retaking of patients escaping from custody

- (1) If any person being in legal custody by virtue of section one hundred and thirty-nine of this Act escapes, he may, subject to the provisions of this section, be retaken—
- (a) in any case, by the person who had his custody immediately before the escape, or by any constable or menial welfare officer;
 - (b) if at the time of the escape he was liable to be detained in a hospital within the meaning of Part IV of this Act, or subject to guardianship under this Act, by any other person who could take him into custody under section forty of this Act if he had absented himself without leave.
- (2) A person who escapes as aforesaid when liable to be detained or subject to guardianship as mentioned in paragraph (b) of the foregoing subsection (not being a person subject to an order under Part V of this Act restricting his discharge or an order or direction having the like effect as such an order) shall not be retaken under this section after the expiration of the period within which he could be retaken under section forty of this Act if he had absented himself without leave on the day of the escape; and subsection (3) of the said section forty shall apply with the necessary modifications accordingly.
- (3) A person who escapes while being taken to or detained in a place of safety under section one hundred and thirty-five or section one hundred and thirty-six of this Act shall not be retaken under this section after the expiration of the period of seventy-two hours beginning with the time when he escapes or the period during which he is liable to be so detained, whichever expires first.
- (4) This section, so far as it relates to the escape of a person liable to be detained in a hospital within the meaning of Part IV of this Act, shall apply in relation to a person who escapes—

- (a) while being taken to or from such a hospital in pursuance of regulations under section forty-one of this Act, or of any order, direction or authorisation under Parts V to VII of this Act; or
 - (b) while being taken to or detained in a place of safety in pursuance of an order under Part V of this Act pending his admission to such a hospital,
as if he were liable to be detained in that hospital and, if he had not previously been received therein, as if he had been so received.
- (5) In computing for the purposes of sections sixty-three and sixty-four of this Act the period of twenty-eight days therein, mentioned, no account shall be taken of any time during which the patient is at large and liable to be retaken by virtue of this section.
- (6) Section forty-five of this Act shall, with any necessary modifications, apply in relation to a patient who is at large and liable to be retaken by virtue of this section as it applies in relation to a patient who is absent without leave within the meaning of section forty of this Act, and references therein to the said section forty shall be construed accordingly.

141 Protection for acts done in pursuance of this Act

- (1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act or any regulations or rules thereunder, or in, or in pursuance of anything done in, the discharge of functions conferred by any other enactment on the authority having jurisdiction under Part VIII of this Act, unless the act was done in bad faith or without reasonable care.
- (2) No civil or criminal proceedings shall be brought against any person in any court in respect of any such act without the leave of the High Court, and the High Court shall not give leave under this section unless satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith or without reasonable care.
- (3) This section does not apply to proceedings for an offence under this Act, being proceedings which, under any provision of this Act, can be instituted only by or with the consent of the Director of Public Prosecutions.
- (4) In this section, references to the High Court shall be construed, in relation to Northern Ireland, as references to a judge of the High Court of Northern Ireland,

142 Default powers of Minister

- (1) Where the Minister is of opinion, on complaint or otherwise, that a local health authority have failed to carry out functions conferred or imposed on the authority by or under this Act or have in carrying out those functions failed to comply with any regulations relating thereto, he may after such inquiry as he thinks fit make an order declaring the authority to be in default.
- (2) Subsections (3) to (5) of section fifty-seven of the National Health Service Act, 1946 (which relates to orders declaring, among others, a local authority to be in default under that Act) shall apply in relation to an order under this section as they apply in relation to an order under that section.

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143 Inquiries

The Minister may cause an inquiry to be held in any case where he thinks it advisable to do so in connection with any matter arising under this Act, and subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held under this Act, except that no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless the authority is a party thereto.

144 Expenses

- (1) There shall be defrayed out of moneys provided by Parliament—
 - (a) any expenses incurred by the Minister or a Secretary of State under this Act;
 - (b) any sums required for the payment of fees and expenses to medical practitioners acting in relation to a member of the House of Commons under section one hundred and thirty-seven of this Act;
 - (c) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under any other enactment.
- (2) Any sums required for the payment of fees and expenses to medical practitioners acting in relation to a member of the House of Commons of Northern Ireland under section one hundred and thirty-seven of this Act shall be defrayed in such manner as may be provided by the Parliament of Northern Ireland.

145 General provisions as to regulations, orders and rules

- (1) Any power of the Minister or the Lord Chancellor to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.
- (2) Any Order in Council under this Act and any statutory instrument containing regulations or rules made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

146 Warrants of Secretary of State

Any warrant of a Secretary of State under this Act shall be given under the hand of the Secretary of State or of an Under Secretary of State.

147 Interpretation

- (1) In this Act, unless the context otherwise requires, the following expressions have meanings hereby respectively assigned to them, that is to say:—
 - " absent without leave " has the meaning assigned to it by section forty of this Act;
 - " direction restricting discharge " has the meaning assigned to it by section seventy-four of this Act;
 - " hospital " means—
 - (a) any hospital vested in the Minister under the National Health Service Act, 1946;
 - (b) any accommodation provided by a local authority and used for hospital and specialist services under Part II of that Act; and
 - (c) any special hospital;

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and " hospital within the meaning of Part IV of this Act" has the meaning assigned to it by subsection (2) of section fifty-nine of this Act;

" hospital order " and " guardianship order " have the meanings respectively assigned to them by section sixty of this Act;

" local health authority " has the same meaning as in the National Health Service Act, 1946, and includes a joint board constituted under section nineteen of that Act;

" the managers " has the meaning assigned to it by Part IV of this Act;

" medical practitioner " means a registered medical practitioner within the meaning of the Medical Act, 1956;

" medical treatment " includes nursing, and also includes care and training under medical supervision ;

" mental nursing home " has the meaning assigned to it in Part III of this Act;

" mental welfare officer " means an officer of a local health authority appointed to act as mental welfare officer for the purposes of this Act;

" Minister " means the Minister of Health;

" nearest relative ", in relation to a patient, has the meaning assigned to it in Part IV of this Act; ;

" order restricting discharge " has the meaning assigned to it by section sixty-five of this Act;

" patient " (except in Part VIII of this Act) means a person suffering or appearing to be suffering from mental disorder;

" special hospital " has the meaning assigned to it in Part VII of this Act;

" transfer direction " has the meaning assigned to it by section seventy-two of this Act.

- (2) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.
- (3) Without prejudice to the last foregoing subsection, any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act.
- (4) In relation to a person who is liable to be detained or subject to guardianship by virtue of an order or direction under Part V of this Act, any reference in this Act to any enactment contained in Part IV of this Act shall be construed as a reference to that enactment as it applies to that person by virtue of the said Part V.
- (5) For the purposes of this Act a person shall be deemed not to have attained the age of sixteen, twenty-one or twenty-five years, as the case may be, until the commencement of the sixteenth, twenty-first or twenty-fifth anniversary of the date of his birth.

148 Transitional provisions

- (1) The transitional provisions set out in the Sixth Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

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

- (2) For the purposes of Part III of the said Sixth Schedule, an order sending a person to an institution or placing a person under guardianship, made before the ninth day of March, nineteen hundred and fifty-six, on a petition presented under the Mental Deficiency Act, 1913, shall be deemed to be valid notwithstanding that that person may not have been found neglected within the meaning of section two of that Act when that order was made if—
- (a) that order has been continued, at any time after that date, by order made by the Board of Control under section eleven of that Act after consideration of the reports and certificate required by that section; or
 - (b) the period for which that order was in force on the said date has not expired before the commencement of this Act, but the Board, after considering a report by a medical practitioner qualified to make a special report under the said section eleven, have determined that the patient is not a proper person to be discharged.

149 Minor and consequential amendments and repeals

- (1) The enactments described in the first column of the Seventh Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.
- (2) The enactments described in the Eighth Schedule to this Act (which include certain obsolete enactments relating to persons of unsound mind) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Her Majesty may by Order in Council repeal or amend any local enactment so far as appears to Her Majesty to be necessary in consequence of any provision of this Act.
- (4) The repeal by this Act of the Mental Treatment Act, 1930, shall not affect any amendment effected by section twenty of that Act in any enactment not repealed by this Act.
- (5) The repeal by this Act of the provisions of the Lunacy Act, 1890, and of the Mental Deficiency Act, 1913, relating to the superannuation of officers or employees shall not affect any arrangements for the payment of allowances or other benefits made in accordance with those provisions and in force at the commencement of this Act.

150 Application to Scotland

The following provisions of this Act shall extend to Scotland, that is to say—

- subsection (5) of section three;
- section ten;
- subsection (5) of section sixty-six;
- sections eighty-one to eighty-four;
- section ninety-one;
- section ninety-three and, so far as applied by that section, sections forty, forty-six and one hundred and forty;
- subsection (4) of section one hundred and ten;
- section one hundred and seventeen and so much of part VIII as is applied in relation to Scotland by that section;

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

section one hundred and twenty-nine except so far as it relates to patients subject to guardianship;
section one hundred and thirty-three;
sections one hundred and thirty-seven to one hundred and thirty-nine;
subsection (1) of section one hundred and forty-one;
section one hundred and forty-five so far as applicable to any Order in Council extending to Scotland;
section one hundred and forty-six;
section one hundred and forty-nine except so far as it relates to the amendments and repeals contained in Part I of the Seventh and Eighth Schedules;
Part II of the Seventh Schedule ;
Part II of the Eighth Schedule ;

but except as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall not extend to Scotland.

151 Power of Parliament of Northern Ireland to make consequential amendments of this Act

Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act, 1920, that Parliament may by any Act re-enacting (with or without modifications) or amending the law in force in Northern Ireland with respect to persons suffering from mental disorder make such amendments of the provisions of this Act which extend to Northern Ireland (except section ninety and any provision of Part VIII) as may be necessary for the purpose of bringing the said provisions into conformity with the provisions of that Act.

152 Application to Northern Ireland

The following provisions of this Act shall extend to Northern Ireland, that is to say—
subsection (5) of section three ;
sections eighty-five to eighty-eight;
section ninety;
section ninety-two;
section ninety-three and, so far as applied by that section, sections forty, forty-six and one hundred and forty;
subsection (4) of section one hundred and ten;
section one hundred and seventeen and so much of Part VIII as is applied in relation to Northern Ireland by that section;
section one hundred and twenty;
section one hundred and twenty-nine, except so far as it relates to patients subject to guardianship;
sections one hundred and thirty-seven to one hundred and thirty-nine;
section one hundred and forty-one;
subsection (2) of section one hundred and forty-four ;
section one hundred and forty-five so far as applicable to any Order in Council extending to Northern Ireland;
section one hundred and forty-six;

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

section one hundred and forty-nine except so far as it relates to the amendments and repeals contained in Part I of the Seventh and Eighth Schedules ;
section one hundred and fifty-one ;
the Fourth Schedule;
Part II of the Seventh Schedule;
Part II of the Eighth Schedule ;
but except as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall not extend to Northern Ireland.

153 Commencement

- (1) This Act (except this section) shall come into operation on such date as the Minister may by order appoint.
- (2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.
- (3) Without prejudice to section thirty-seven of the Interpretation Act, 1889 (which authorises the exercise of statutory powers between the passing and the commencement of an Act conferring them), the following powers, that is to say—
 - (a) the power of the Minister to give directions under subsection (1) of section twenty-eight of the National Health Service Act, 1946, for defining the duties of local health authorities under that section as amended by this Act; and
 - (b) the powers of the Minister and of local health authorities with respect to the submission, approval or making of proposals under section twenty of that Act for modifying in the light of such directions the proposals in force at the passing of this Act for the carrying out of the duties of those authorities under the said section twenty-eight,may be exercised at any time after the passing of this Act.

154 Short title and application to Stilly Isles

- (1) This Act may be cited as the Mental Health Act, 1959.
- (2) Subsection (3) of section eighty of the National Health Service Act, 1946 (which provides for the extension of that Act to the Isles of Scilly) shall have effect as if the references to that Act included references to this Act.