

A Bill to repeal the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, and to make fresh provision with respect to the treatment and care of mentally disordered persons and with respect to their property and affairs, and for purposes connected with the matters aforesaid / presented by Derek Walker-Smith, supported by The Prime Minister, Mr Secretary Butler, Mr Attorney General, Mr Renton and Richard Thompson.

Contributors

Great Britain.
Walker-Smith, Derek, 1910-1992.

Publication/Creation

London : H.M.S.O., [1958?]

Persistent URL

<https://wellcomecollection.org/works/h6uv5bzt>

License and attribution

This work has been identified as being free of known restrictions under copyright law, including all related and neighbouring rights and is being made available under the Creative Commons, Public Domain Mark.

You can copy, modify, distribute and perform the work, even for commercial purposes, without asking permission.



Wellcome Collection
183 Euston Road
London NW1 2BE UK
T +44 (0)20 7611 8722
E library@wellcomecollection.org
<https://wellcomecollection.org>

Mental Health Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

1. The Bill repeals the Lunacy and Mental Treatment Acts, 1890-1930 and the Mental Deficiency Acts, 1913-1938. It specifies the circumstances in which mentally disordered persons may be compulsorily detained in hospital or placed under guardianship, including those who come before the criminal courts, and provides a new system for regulating the use of compulsory powers. It codifies the powers of the judges and Court of Protection to manage the property and affairs of mentally disordered persons. It makes minor amendments to the National Health Service Act, 1946, and other Acts under which care and treatment are provided by local authorities and hospital authorities, and revises the system of registration of nursing homes and residential homes for mentally disordered persons.

2. Reference is made in the following paragraphs to the expenditure involved in certain of the provisions of the Bill. Except in these cases the Bill does not involve any substantial new or increased charge upon central or local funds.

3. *Part I* repeals the principal existing Acts, provides for the dissolution of the Board of Control, and for the establishment of Mental Health Review Tribunals to deal with applications in respect of patients who are detained, and (in Clause 4) defines the persons to whom the Bill applies. The cost to the Exchequer of fees and travelling expenses of members of the Mental Health Review Tribunals is estimated to be about £200,000 a year. Staffs for the Tribunals are estimated to cost about £36,000 a year, but this expenditure and other expenditure on the Tribunals (likely to be very small) will be offset by savings consequent on the dissolution of the Board of Control.

4. *Part II.* Clauses 6-10 empower local health authorities to provide under Section 28 of the National Health Service Act certain services now provided under the Mental Deficiency Acts, and, by removing some restrictions in the National Assistance Act, 1948, and the Children Act, 1948, give local authorities greater freedom to organise services for mentally disordered persons within the framework of their general health, welfare or child care services, as appropriate.

5. Clauses 11-13 amend the Education Acts by revising the procedure to be followed when children are found to be unsuitable by reason of mental disorder for education at school, confer

[Bill 53]

SHEPHERD COLL
GRE

SHEPHERD
COLLECTION

/GRE

on parents a new right to apply for review in such cases, and enable local health authorities to compel the attendance of such children at training centres under provisions similar to those in force under the Education Acts for compelling attendance at school.

6. *Part III* provides for nursing and residential homes for mentally disordered persons to be registered and inspected by local authorities under the same enactments as other nursing and disabled persons' homes, subject to some special provisions, and for the inspection of other premises in which mentally disordered persons are believed to be living without proper care. These provisions replace various arrangements for registration and powers of visiting premises under the Lunacy and Mental Treatment Acts and Mental Deficiency Acts.

7. *Part IV* defines the circumstances in which persons suffering from certain forms of mental disorder may be compulsorily admitted to and detained in hospitals or nursing homes for observation or treatment, or may be placed under guardianship, in their own interests or for the protection of other persons. It prescribes the procedure for placing such patients in hospitals or nursing homes or under guardianship, confers powers of discharge, provides for the review of their cases by Mental Health Review Tribunals and deals with other matters connected with the care and treatment of the patients (including transfer from hospital to guardianship and vice versa).

8. *Part V* enables the courts of criminal jurisdiction to make orders authorising the detention in hospital or the reception into guardianship of persons who come before them and are found to be suffering from mental disorder, and enables the Secretary of State to transfer mentally disordered persons to hospital from penal institutions and to hospital or guardianship from approved schools. These provisions replace with some modifications and additions provisions in the enactments repealed by the Bill. The power to make orders under Part V is exercisable by courts of assize and quarter sessions, as well as magistrates' courts, in the case of persons suffering from mental disorder who are convicted before them of offences punishable with imprisonment for which the penalty is not fixed by law, and by juvenile courts in the case of children and young persons suffering from mental disorder who are found to be in need of care or protection or beyond control. Where a patient is admitted to hospital under an order made by a court of assize or quarter sessions, or transferred to a hospital by directions of the Secretary of State, the court or the Secretary of State may impose special restrictions upon the discharge of the patient. The Bill confers a right of appeal against orders made by the courts under Part V where such a right does not otherwise exist.



9. *Part VI* enables certain patients who are subject to detention in hospital or under guardianship to be transferred in certain circumstances without a break in the authority for detention between England and Wales and Scotland, Northern Ireland, the Isle of Man and the Channel Islands, and also provides for the removal of mentally ill aliens. *Part VI* also re-enacts with additions and modifications the provisions of the Lunacy Act relating to the return from different parts of the United Kingdom of patients absent without leave.

10. *Part VII* replaces provisions in Acts repealed by the Bill for the administration and management of state institutions for mental defectives of dangerous or violent propensities and Broadmoor Institutions.

11. *Part VIII* provides a statutory code governing the management of the property and affairs of mentally disordered patients; and, without departing in essentials from the existing law and practice, it makes a number of small changes.

12. *Part IX* provides for miscellaneous and general matters. Clauses 120-122 deal with the powers and procedure of Mental Health Review Tribunals. Clause 130 empowers the Minister of Health and Secretary of State for Scotland to pay pocket money to in-patients in hospitals for the treatment of mental disorder (including the state institutions). This involves no additional cost to the Exchequer, but places on a specific statutory basis arrangements for the payment of pocket money in appropriate cases to patients in these hospitals. The present annual cost of the payments is estimated to be about £1 million in Great Britain.

13. The remaining provisions in *Part IX* correspond to provisions in Acts repealed by the Bill, with some alteration in their application to particular categories of patients and some other variations of detail. Penalties for some offences are increased so as to correspond with penalties for comparable offences under modern legislation.



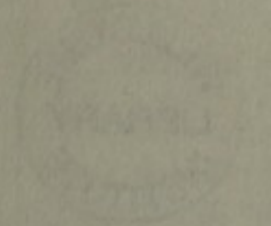
1. This Bill will give certain patients who are subject to detention in the hospital of a mental hospital the right to be transferred to certain other hospitals within the limits of the county in which the patient is detained. It will also give the Secretary of State power to make regulations for the transfer of patients from one hospital to another and also provide for the transfer of patients from one hospital to another and also provide for the transfer of patients from one hospital to another.

2. This Bill will give the Secretary of State power to make regulations for the transfer of patients from one hospital to another and also provide for the transfer of patients from one hospital to another.

3. This Bill will give the Secretary of State power to make regulations for the transfer of patients from one hospital to another and also provide for the transfer of patients from one hospital to another.

4. This Bill will give the Secretary of State power to make regulations for the transfer of patients from one hospital to another and also provide for the transfer of patients from one hospital to another.

5. This Bill will give the Secretary of State power to make regulations for the transfer of patients from one hospital to another and also provide for the transfer of patients from one hospital to another.



Mental Health Bill

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

Clause

1. Repeal of Lunacy and Mental Treatment Acts and Mental Deficiency Acts.
2. Dissolution of Board of Control.
3. Mental Health Review Tribunals.
4. Definition and classification of mental disorder.
5. Informal admission of patients.

PART II

LOCAL AUTHORITY SERVICES

General provisions

6. Functions of local health authorities.
7. Conduct of premises of local health authorities.
8. Functions of welfare authorities.
9. Functions of children authorities.
10. Welfare of certain hospital patients.

Provision for care and training of children in lieu of education

11. Examination and classification under Education Act, 1944.
12. Power to compel attendance at training centres.
13. Provisions as to regular attendance for training.

PART III

MENTAL NURSING HOMES, RESIDENTIAL HOMES, ETC.

14. Registration of nursing homes under Public Health Act.
15. Special provisions as to registration of nursing homes.

Clause

16. Conduct of mental nursing homes.
17. Inspection of mental nursing homes and visiting of patients.
18. Continuance of special registration on cancellation or death.
19. Registration of residential homes under National Assistance Act, 1948.
20. Special provisions as to registration of residential homes.
21. Records and inspection of residential homes.
22. Powers of entry and inspection of other premises.
23. Prosecution of offences.
24. Application to London.

PART IV

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Procedure for hospital admission

25. Admission for observation.
26. Admission for treatment.
27. General provisions as to applications.
28. General provisions as to medical recommendations.
29. Application for admission in case of emergency.
30. Applications in respect of patients already in hospital.
31. Effect of application for admission.
32. Rectification of application and recommendations.

Procedure for reception into guardianship

33. Application for guardianship.
34. Effect of guardianship application, etc.

Care and treatment of patients

35. Regulations as to guardianship.
36. Correspondence of patients.
37. Visiting and examination of patients.
38. Re-classification of patients.
39. Leave of absence from hospital.
40. Return and re-admission of patients absent without leave.
41. Regulations as to transfer of patients.
42. Transfer of guardianship in case of death, incapacity, etc., of guardian.

*Duration of authority for detention or guardianship
and discharge of patients*

43. Duration of authority.
44. Special provisions as to psychopathic and subnormal patients.
45. Special provisions as to patients absent without leave.

Clause

46. Special provisions as to patients sentenced to imprisonment, etc.
47. Discharge of patients.
48. Restrictions on discharge by nearest relative.

Functions of relatives of patients

49. Definition of relative and nearest relative.
50. Children and young persons in care of local authority.
51. Nearest relative of infant under guardianship, etc.
52. Transfer of functions of nearest relative.
53. Discharge, amendment and termination of orders for transfer of functions.

Supplemental

54. Procedure on applications to county court.
55. Regulations for purposes of Part IV.
56. Power of Minister to refer to Tribunal.
57. Special provisions as to wards of court.
58. Interpretation of Part IV.

PART V

ADMISSION OF PATIENTS CONCERNED IN CRIMINAL
PROCEEDINGS, ETC., AND TRANSFER OF PATIENTS
UNDER SENTENCE*Provisions for compulsory admission or guardianship
of patients convicted of criminal offences, etc.*

59. Powers of courts to order hospital admission or guardianship.
60. Additional powers in respect of children and young persons.
61. Requirements as to medical evidence.
62. Effects of hospital order and guardianship order.
63. Supplementary provisions as to hospital orders.
64. Power of higher courts to restrict discharge from hospital.
65. Powers of Secretary of State in respect of patients subject to restriction orders.
66. Power of magistrates' courts to commit for restriction order.
67. Committal to hospital under s. 66.
68. Appeals from assizes and quarter sessions.
69. Appeals from magistrates' courts.
70. Persons ordered to be kept in custody during Her Majesty's pleasure.

Transfer to hospital or guardianship of prisoners, etc.

Clause

71. Removal to hospital of persons serving sentences of imprisonment etc.
72. Removal to hospital of other prisoners.
73. Restriction on discharge of prisoners removed to hospital.
74. Further provisions as to prisoners under sentence.
75. Further provisions as to persons committed for trial or sentence, etc.
76. Further provisions as to persons remanded by magistrates' courts.
77. Further provisions as to civil prisoners.
78. Reception into guardianship of persons sent to approved schools.

Supplemental

79. Interpretation of Part V.

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN
UNITED KINGDOM, ETC.*Removal to and from Scotland*

80. Removal to Scotland of patients not subject to restriction.
81. Removal to Scotland of patients subject to restriction on discharge.
82. Application of Scottish enactments to patients removed under s. 81.
83. Removal to England and Wales of state mental patients.

Removal to and from Northern Ireland

84. Removal to Northern Ireland of patients not subject to restriction.
85. Removal to Northern Ireland of patients subject to restriction on discharge.
86. Removal to England and Wales of patients other than criminal patients.
87. Removal to England and Wales of criminal patients.

Other provisions as to removal

88. Removal of certain patients from Channel Islands and Isle of Man to England and Wales.
89. Removal of alien patients.

Return of patients absent without leave

90. Persons absent from Scottish institutions.
91. Patients absent from Northern Irish institutions.
92. Patients absent from hospitals in England and Wales.

Clause

Supplemental

93. Regulations for purposes of Part VI.
94. General provisions as to patients removed from England and Wales.

PART VII

STATE INSTITUTIONS

95. Provision of institutions for treatment under conditions of special security.
96. Administrative provisions.
97. Transfers to and from state institutions.

PART VIII

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

98. Judicial authorities and Court of Protection.
99. Persons in relation to whom judge's functions exercisable: "the patient".
100. General functions of the judge with respect to property and affairs of patient.
101. Particular powers as to patient's property and affairs.
102. Judge's powers in cases of emergency.
103. Power to appoint receiver.
104. Vesting of stock in curator appointed outside England and Wales.
105. Preservation of interests in patient's property.
106. Lord Chancellor's Visitors.
107. Functions of Visitors.
108. General powers of judge with respect to proceedings.
109. Appeals.
110. Rules of procedure.
111. Security and accounts.
112. General provisions as to rules under Part VIII.
113. Supplementary provisions as to Court of Protection.
114. Effect and proof of orders, etc.
115. Reciprocal arrangements in relation to Scotland and Northern Ireland as to exercise of powers.
116. Construction of references in other Acts to judge or authority having jurisdiction under Part VIII.
117. Interpretation of Part VIII.
118. Modifications of Lunacy Regulation (Ireland) Act, 1871.
119. Repeal of certain enactments in relation to patients and alleged patients.

PART IX

MISCELLANEOUS AND GENERAL

*Powers and proceedings of Mental Health
Review Tribunals*

Clause

- 120. Applications to tribunals.
- 121. Powers of tribunals.
- 122. Rules as to procedure.

Offences

- 123. Forgery, false statements, etc.
- 124. Ill-treatment of patients.
- 125. Amendment of Sexual Offences Act, 1956.
- 126. Sexual intercourse with patients.
- 127. Assisting patients to absent themselves without leave, etc.
- 128. Obstruction.
- 129. Prosecutions by local authorities.

Miscellaneous provisions

- 130. Provision of pocket money for in-patients in hospital.
- 131. Correspondence of patients not subject to detention.
- 132. Warrant to search for and remove patients.
- 133. Mentally disordered persons found in public places.
- 134. Amendment of provisions as to members of Parliament.

Supplemental

- 135. Provisions as to custody, conveyance and detention.
- 136. Protection for acts done in pursuance of this Act.
- 137. Default powers of Minister.
- 138. Inquiries.
- 139. Expenses.
- 140. General provisions as to regulations, orders and rules.
- 141. Warrants of Secretary of State.
- 142. Interpretation.
- 143. Transitional provisions.
- 144. Minor and consequential amendments and repeals.
- 145. Power of Parliament of Northern Ireland to make consequential amendments of this Act.
- 146. Short title, commencement and extent.

SCHEDULES:

First Schedule—Mental Health Review Tribunals.

Second Schedule—Sections substituted for Education Act, 1944, s. 57.

Third Schedule—Application of Part IV to patients admitted to hospital or placed under guardianship under Part V.

Fourth Schedule—Modifications of provisions of Lunacy Regulation (Ireland) Act, 1871.

Fifth Schedule—General enactments ceasing to have effect in relation to patients and alleged patients.

Sixth Schedule—Transitional provisions.

Seventh Schedule—Minor and consequential amendments.

Eighth Schedule—Enactments repealed.

Memorandum
The following report was submitted for
the Board of Directors of the
American Red Cross Society
on July 2, 1917.
The report is in accordance with the
instructions of the Board of Directors
dated June 15, 1917.
The report is in accordance with the
instructions of the Board of Directors
dated June 15, 1917.
The report is in accordance with the
instructions of the Board of Directors
dated June 15, 1917.
The report is in accordance with the
instructions of the Board of Directors
dated June 15, 1917.
The report is in accordance with the
instructions of the Board of Directors
dated June 15, 1917.

A
B I L L

T O

Repeal the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, and to make fresh provision with respect to the treatment and care of mentally disordered persons and with respect to their property and affairs; and for purposes connected with the matters aforesaid. A.D. 1959

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1. Subject to the transitional provisions contained in this Act, the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, shall cease to have effect, and the following provisions of this Act shall have effect in lieu of those enactments with respect to the reception, care and treatment of mentally disordered patients, the management of their property, and other matters related thereto. Repeal of Lunacy and Mental Treatment Acts and Mental Deficiency Acts.

2.—(1) The following provisions of this section shall have effect on the repeal by this Act of the enactments constituting the Board of Control. Dissolution of Board of Control.

(2) The persons who immediately before the dissolution of the Board by virtue of the said repeal were members of the Board or then held office under the Board as commissioners or inspectors shall become officers of the Ministry of Health.

[Bill 53]

A.D. 1959

PART I

—cont.

(3) The dissolution of the Board shall not affect any rights, liabilities or obligations of the Board ; but all such rights, liabilities and obligations, and any property held by the Board immediately before the dissolution, shall be transferred to and vest in the Minister and any proceedings then pending to which the Board was a party may be continued by or against the Minister. 5

Mental
Health
Review
Tribunals.

3.—(1) For every area for which a Regional Hospital Board is constituted under section eleven of the National Health Service Act, 1946, there shall be constituted a Tribunal, to be called a Mental Health Review Tribunal, for the purpose of dealing with applications and references by and in respect of patients under the following provisions of this Act. 10

(2) The provisions of the First Schedule to this Act shall have effect with respect to the constitution of Mental Health Review Tribunals. 15

(3) Subject to the provisions of the said First Schedule, and to rules made by the Lord Chancellor under this Act, the jurisdiction of a Mental Health Review Tribunal may be exercised by any three or more of its members, and references in this Act to a Mental Health Review Tribunal shall be construed accordingly. 20

(4) *The Minister may pay to the members of Mental Health Review Tribunals such fees and allowances as he may with the consent of the Treasury determine, and defray the expenses of such Tribunals to such amount as he may with the like consent determine, and may provide for each such Tribunal such officers and servants, and such accommodation, as the Tribunal may require.* 25

(5) Part II of the First Schedule to the House of Commons Disqualification Act, 1957 (which specifies certain commissions, tribunals and other bodies all members of which are disqualified under that Act) shall have effect, in its application to the House of Commons of the Parliament of the United Kingdom, as if after the entry relating to Medical Practices Committees there were inserted the following entry:— 30 35

“ A Mental Health Review Tribunal constituted under the Mental Health Act, 1959.”

Definition and
classification
of mental
disorder.

4.—(1) In this Act “ mental disorder ” means mental illness, arrested or incomplete development of mind, psychopathic disorder, and any other disorder or disability of mind ; and “ mentally disordered ” shall be construed accordingly. 40

(2) In this Act “ severe subnormality ” means a state of arrested or incomplete development of mind which includes subnormality of intelligence and is of such a nature or degree that the patient is incapable of living an independent life. 45

(3) In this Act "subnormality" means a state of arrested or incomplete development of mind (not amounting to severe subnormality) which includes subnormality of intelligence and is of a nature or degree which requires or is susceptible to medical treatment or other special care or training of the patient.

A.D. 1959

PART I
—cont.

(4) In this Act "psychopathic disorder" means a persistent disorder of personality (whether or not accompanied by subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the patient, and requires or is susceptible to medical treatment.

(5) Nothing in this section shall be construed as implying that a person may be treated as mentally disordered, or as suffering from any form of mental disorder described in this section, by reason only of promiscuity or other immoral conduct.

15 5.—(1) Nothing in this Act shall be construed as precluding the reception or treatment in any hospital or mental nursing home, without power of detention, of any person for whose reception arrangements are made otherwise than by means of an application, order or direction under the following provisions of this Act, or of any person admitted or transferred in pursuance of any such application, order or direction who has ceased to be liable to be detained under this Act.

Informal
admission of
patients.

(2) For the purposes of the making of arrangements to receive treatment for mental disorder in or at any hospital or mental nursing home, and of receiving and ceasing to receive treatment in pursuance of such arrangements, a person who has attained the age of sixteen years shall have the same rights and powers as if he had attained the age of twenty-one years; but nothing in this subsection shall be construed as affecting the law relating to the enforcement of contracts made by infants.

PART II

LOCAL AUTHORITY SERVICES

General Provisions

35 6.—(1) In relation to persons who are or have been suffering from mental disorder, section twenty-eight of the National Health Service Act, 1946 (which relates to functions of local health authorities with respect to the prevention of illness and the care and after-care of patients) shall have effect subject to the following provisions of this section.

Functions of
local health
authorities.

40 (2) The purposes for which arrangements are authorised or may be required to be made by a local health authority under

A.D. 1959

PART II
—cont.

subsection (1) of the said section twenty-eight for the care or after-care of such persons as aforesaid shall include the following, that is to say:—

- (a) the provision, equipment and maintenance of residential accommodation, and the care of persons for the time being resident in accommodation so provided; 5
- (b) the provision of centres or other facilities for training or occupation, and the equipment and maintenance of such centres;
- (c) the appointment of officers to act as mental welfare officers under the following provisions of this Act; 10
- (d) the exercise by the local health authority of their functions under the following provisions of this Act in respect of persons placed under guardianship thereunder (whether so placed under the guardianship of the local health authority or of other persons); and 15
- (e) the provision of any ancillary or supplementary services for or for the benefit of any such persons as are referred to in subsection (1) of this section;

and subsections (2) and (3) of the said section twenty-eight shall have effect accordingly. 20

(3) Notwithstanding anything in subsection (1) of the said section twenty-eight, the reference in paragraph (a) of subsection (2) of this section to the care of persons for the time being resident in accommodation provided by a local health authority includes, in the case of persons so resident who are under the age of sixteen years, the payment to those persons of such amounts as the local health authority think fit in respect of their occasional personal expenses where it appears to that authority that no such payment would otherwise be made. 30

Conduct of premises of local health authorities.

7.—(1) The Minister may make regulations as to the conduct of any premises in which residential accommodation or facilities for training or occupation are provided by local health authorities under section twenty-eight of the National Health Service Act, 1946, for persons who are or have been suffering from mental disorder. 35

(2) Regulations made under this section may in particular confer upon officers of the Minister authorised thereunder such powers of inspection as may be prescribed by the regulations.

Functions of welfare authorities.

8.—(1) For the purposes of subsection (8) of section twenty-one of the National Assistance Act, 1948 (which restricts the duties of local authorities in respect of the provision of accommodation under that section by reference to the provision authorised or required to be made under other enactments) no account shall be taken of the provision authorised or required to be made 45

by local health authorities under section twenty-eight of the National Health Service Act, 1946, with respect to residential accommodation for persons who are or have been suffering from mental disorder.

A.D. 1959

PART II
—cont.

5 (2) The persons referred to in subsection (1) of section twenty-nine of the said Act of 1948 (which section enables local authorities to make arrangements for promoting the welfare of blind persons and other disabled persons described in the said subsection (1)) shall include mentally disordered persons of any
10 description ; and for the purposes of subsection (6) of that section (which, among other things, excludes from that section the provision of accommodation or services required to be provided under the National Health Service Act, 1946), no account shall be taken of the provisions of Part III of the National Health
15 Service Act, 1946, with respect to the provision of accommodation or services for such persons.

(3) Subsection (2) of this section shall not affect the operation of the provisions of Part IV of the National Assistance Act, 1948, relating to disabled persons' homes or charities for disabled
20 persons, but without prejudice to the provisions of Part III of this Act with respect to the registration of such homes.

(4) Nothing in this section shall be construed as requiring a local authority to make provision for the same purposes both under Part III of the National Health Service Act, 1946, and
25 under Part III of the National Assistance Act, 1948.

9.—(1) Any local authority for the purposes of the Children Act, 1948 (in this section referred to as a children authority) may
accommodate in homes or other accommodation provided by that authority under section fifteen of that Act any child who, not
30 being in their care within the meaning of Part II of that Act, is a person whose care or after-care is for the time being undertaken by that or any other authority as local health authority in pursuance of arrangements made under section twenty-eight of the National Health Service Act, 1946, for the care or after-care
35 of persons who are or have been suffering from mental disorder.

Functions of
children
authorities.

(2) Where a child whose care or after-care is for the time being undertaken by a local health authority in pursuance of such arrangements as aforesaid is accommodated under the said section fifteen by the same authority as children authority, the
40 authority may make such adjustments as appear to them to be appropriate between the accounts kept by them as local health authority and the accounts kept by them as children authority.

(3) Nothing in this Act, or in any other enactment, shall be construed as preventing a children authority from receiving into
45 their care under section one of the Children Act, 1948, a child who is mentally disordered, nor as preventing a local health

A.D. 1959

PART II

—cont.

Welfare of
certain
hospital
patients.

authority from accommodating in pursuance of such arrangements as aforesaid any child who is in the care of that or any other authority as a children authority.

10.—(1) Subject to the provisions of this section, where a mentally disordered patient being—

(a) a child or young person in respect of whom the rights and powers of a parent are vested in a local authority by virtue of—

(i) 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);

(ii) section seventy-nine of the Children and Young Persons (Scotland) Act, 1937 (which makes corresponding provision in Scotland); or

(iii) section three of the Children Act, 1948 (which relates to children in respect of whom parental rights have been assumed by a local authority under section two of that Act);

(b) a person who is subject to the guardianship of a local health authority under the following provisions of this Act; or

(c) a person the functions of whose nearest relative under this Act are for the time being transferred to a local health authority,

is admitted to a hospital or nursing home in England and Wales (whether for treatment for mental disorder or for any other reason) then, without prejudice to their duties in relation to the patient apart from the provisions of this section, the authority shall arrange for visits to be made to him on behalf of the authority, and shall take such other steps in relation to the patient while in the hospital or nursing home as would be expected to be taken by his parents.

(2) Section eight of the Children Act, 1948, and subsection (6) of section five of the Matrimonial Proceedings (Children) Act, 1958 (which provide for the removal from the care of local authorities of children who come under control under the enactments relating to mental deficiency or to lunacy and mental treatment) shall cease to have effect; and this subsection, so far as it relates to the Children Act, 1948, shall extend to Scotland.

Provision for care and training of children in lieu of education

Examination
and
classification
under
Education
Act, 1944.

11.—(1) The sections set out in the Second Schedule to this Act, and therein numbered fifty-seven, fifty-seven A and fifty-seven B, shall be substituted for section fifty-seven of the Education Act, 1944; and section eight of the Education (Miscellaneous Provisions) Act, 1948 (which amended section fifty-seven

of the said Act of 1944 as originally enacted) shall cease to have effect.

A.D. 1959

PART II
—cont.

(2) In any case where, under subsection (4) of section fifty-seven of the Education Act, 1944, a decision is recorded by the local education authority in respect of a child, it shall be the duty of the local health authority to make such arrangements for the treatment, care or training of the child as they consider appropriate in his case.

12.—(1) Where any child for the time being resident in the area of a local health authority is the subject of a decision recorded under section fifty-seven of the Education Act, 1944, and it appears to the local health authority to be appropriate that the child should receive training at a centre provided by that authority, the authority may give notice in writing to the parent of the child requiring him to cause the child to attend, either by the day or, if the notice so directs, as a resident, at such centre so provided as may be specified in the notice at such times or for such periods as may be so specified.

Power to
compel
attendance
at training
centres.

(2) Before giving a notice under this section, the local health authority shall satisfy themselves that the child is not receiving adequate training comparable with the training which he would receive at the centre; and if any person to whom such a notice is given is aggrieved by the notice on the ground that the child is receiving such training, he may require the local health authority to refer the question to the Minister of Health, and that Minister may either confirm the notice or direct that it be amended or withdrawn.

(3) Subject to subsection (2) of this section, if any person fails to comply with a notice given to him under subsection (1) of this section, he shall, unless the child is receiving adequate training comparable with the training which he would receive at the centre, be guilty of an offence and shall be liable on summary conviction, in the case of a first offence to a fine not exceeding one pound, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both.

(4) It shall be the duty of the local health authority to institute proceedings for an offence under this section wherever, in their opinion, the institution of such proceedings is necessary, and no such proceedings shall be instituted except by or on behalf of a local health authority.

(5) In this section "child" means a person who, if he were a registered pupil at a special school, would be a child within

A.D. 1959

PART II

—cont.

Provisions
as to regular
attendance
for training.

the meaning of the Education Act, 1944, and “parent” has the same meaning as in that Act.

13.—(1) For the purposes of any proceedings under section twelve of this Act, the parent of a child shall be deemed to have failed to cause the child to attend at a training centre on any occasion on which the child has failed without leave to attend at the centre, but the child shall not be deemed to have so failed—

(a) at any time when prevented from attending by reason of sickness or any unavoidable cause ; 10

(b) on any day exclusively set apart for religious observance by the religious body to which the parent belongs ; or

(c) if it is not reasonably practicable for the child to make his own way, or to be taken by or on behalf of his parent, to and from the centre, and no suitable arrangements have been made by the local health authority either for his transport to and from the centre or for residential accommodation for him at or near the centre. 15

(2) If in any such proceedings it is proved that the child has no fixed abode, subsection (1) of this section shall have effect as if paragraph (c) were omitted ; but if the parent proves that he is engaged in a trade or business of such a nature as to require him to travel from place to place, and that the child has attended at the training centre as regularly as the nature of the trade or business of the parent permits, the parent shall be acquitted. 20 25

(3) For the purposes of any such proceedings as aforesaid in respect of a child who is residing at a training centre, the parent shall be deemed to have failed to cause the child to attend the centre if the child is absent without leave during any part of the period during which the training is given unless prevented from being present by reason of sickness or any unavoidable cause. 30

(4) In this section “child” and “parent” have the same meaning as in section twelve of this Act, and “leave”, in relation to a training centre, means leave granted by any person authorised in that behalf by the local health authority by whom the training centre is provided. 35

PART III

MENTAL NURSING HOMES, RESIDENTIAL HOMES, ETC.

Registration of
nursing homes
under Public
Health Act.

14.—(1) Part VI of the Public Health Act, 1936 (which relates, among other things, to the registration of nursing homes) shall apply in relation to mental nursing homes as it applies to nursing homes to which the said Part VI applied immediately before the commencement of this Act, not being maternity homes, but shall so apply subject to the following provisions of this Part of this Act. 40 45

A.D. 1959
PART III
—cont.

(2) In this Part of this Act “mental nursing home” means any premises used or intended to be used for the reception of, and the provision of nursing or other medical treatment for, one or more mentally disordered patients (whether exclusively or in common with other persons), not being—

(a) a hospital as defined by this Act;

(b) any other premises managed by a Government department or provided by a local authority;

and “registration authority”, in relation to a mental nursing home, means the council having power to register nursing homes under Part VI of the Public Health Act, 1936.

(3) Section one hundred and ninety-two of the Public Health Act, 1936 (which enables the registration authority to exempt certain voluntary institutions from the provisions of Part VI of that Act relating to nursing homes) shall not apply to mental nursing homes.

(4) Subject to the next following section, the registers to be kept by the registration authority under the said Part VI as applied by this Part of this Act shall be in such form, and shall contain such particulars as may be prescribed by regulations made by the Minister; and such regulations may make provision as to the information to be supplied on applications for registration in respect of mental nursing homes.

15.—(1) Any application for registration under the said Part VI in respect of a mental nursing home shall specify whether or not it is proposed to receive therein patients who are liable to be detained under the following provisions of this Act; and where any person is so registered in pursuance of an application stating that it is proposed to receive such patients, that fact shall be specified in the certificate of registration, and the particulars of the registration shall be entered by the registration authority in a separate part of the register.

Special
Provisions as
to registration
of nursing
homes.

(2) It shall be a condition of the registration of any person in respect of a mental nursing home that the number of persons kept at any one time in the home does not exceed such number as may be specified in the certificate of registration; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or other category of persons who may be received in the home.

(3) If any condition imposed by or under subsection (2) of this section is not complied with, the person carrying on the home shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds; and without prejudice to

A.D. 1959

PART III
—cont.

the foregoing provision, the power of the registration authority to cancel registration under section one hundred and eighty-eight of the Public Health Act, 1936, shall include power to cancel the registration on the ground that any such condition has not been complied with.

Conduct
of mental
nursing homes.

16.—(1) The Minister may make regulations as to the conduct of mental nursing homes, and such regulations may in particular—

(a) make provision as to the facilities and services to be provided in such homes ; and

(b) provide that a contravention or failure to comply with any specified provision of the regulations shall be an offence against the regulations.

(2) Any person guilty of an offence against regulations made under subsection (1) of this section shall be liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds ; and without prejudice to the foregoing provision, the power of the registration authority to cancel registration under section one hundred and eighty-eight of the Public Health Act, 1936, shall include power to cancel the registration of any person on the ground that he has been convicted of such an offence.

(3) A registration authority may, and shall if so required by the Minister, make separate byelaws in respect of mental nursing homes under section one hundred and ninety of the Public Health Act, 1936 (which enables byelaws to prescribe the records to be kept and notices to be given in respect of patients in nursing homes).

Inspection
of mental
nursing homes
and visiting
of patients.

17.—(1) Any person authorised in that behalf by the Minister or by the registration authority may, at any time, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, for the purposes of a mental nursing home, and may inspect any records kept in accordance with byelaws made under section one hundred and ninety of the Public Health Act, 1936.

(2) Regulations made under subsection (1) of section sixteen of this Act may make provision with respect to the exercise on behalf of registration authorities of the powers conferred by subsection (1) of this section, and such regulations may in particular require mental nursing homes to be inspected under that subsection on such occasions, or at such intervals, as may be prescribed by the regulations.

(3) A person authorised under subsection (1) of this section to inspect a mental nursing home may visit and interview in private any mentally disordered patient residing in the home—

A.D. 1959

PART III

—cont.

5 (a) for the purpose of investigating any complaint as to his treatment made by or on behalf of the patient; or

(b) in any case where the person so authorised has reasonable cause to believe that the patient is not receiving proper care;

10 and where the person so authorised is a medical practitioner, he may examine the patient in private and may require the production of and inspect any medical records relating to the treatment of the patient in the nursing home.

15 (4) Section one hundred and ninety-one of the Public Health Act, 1936 (which relates to inspection) shall not apply to mental nursing homes or any premises used or believed to be used as such.

18.—(1) If in the case of a mental nursing home the particulars of the registration of which are entered in the separate part of the register referred to in subsection (1) of section fifteen of this Act the registration is cancelled under section one hundred and eighty-eight of the Public Health Act, 1936 at a time when any patient is liable to be detained in the home under any of the following provisions of this Act, the registration shall, notwithstanding the cancellation, continue in force until the expiration of the period of two months beginning with the date of the cancellation, or until every such patient has been transferred or discharged, whichever first occurs.

Continuance of special registration on cancellation or death.

20 (2) If the person registered in respect of any such mental nursing home as aforesaid (not being one of two or more persons so registered) dies at a time when any patient is liable to be detained therein as aforesaid, the registration shall continue in force—

35 (a) as from the grant of representation to the estate of the deceased, for the benefit of the personal representative of the deceased; and

(b) pending the grant of such representation, for the benefit of any person approved for the purpose by the registration authority,

40 until the expiration of the period of two months beginning with the death, or until every such patient has been transferred or discharged, or until a person other than the deceased has been registered in respect of the home, whichever first occurs; and for the purposes of Part VI of the Public Health Act, 1936, and of this Act any person for whose benefit the registration continues in force under this subsection shall be treated as

45 registered in respect of the home.

A.D. 1959

PART III

—cont.

Registration
of residential
homes under
National
Assistance
Act, 1948.

19.—(1) Subject to the provisions of this and the next following section, sections thirty-seven to forty of the National Assistance Act, 1948 (which relate to the registration, inspection and conduct of homes for disabled persons and old persons) shall apply in relation to a residential home for mentally disordered persons as they apply in relation to homes to which those enactments applied immediately before the commencement of this Act. 5

(2) In this Part of this Act “residential home for mentally disordered persons” means an establishment the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for persons suffering from mental disorder, not being— 10

(a) a mental nursing home ;

(b) a hospital as defined by this Act ; or

(c) any other premises managed by a Government department or provided by a local authority ; 15

and “registration authority”, in relation to a residential home for mentally disordered persons, has the meaning assigned thereto by subsection (2) of section thirty-seven of the National Assistance Act, 1948. 20

(3) A residential home for mentally disordered persons shall be deemed not to be a voluntary home within the meaning of Part V of the Children and Young Persons Act, 1933, or Part IV of the Children Act, 1948 ; and a child who is resident in a residential home for mentally disordered persons shall not be a foster child within the meaning of Part I of the Children Act, 1958, or a protected child within the meaning of Part IV of the Adoption Act, 1958. 25

Special
provisions as
to registration
of residential
homes.

20.—(1) It shall be a condition of the registration of any person in respect of a residential home for mentally disordered persons that the number of persons kept at any one time in the home does not exceed such number as may be specified in the certificate of registration ; and without prejudice to the foregoing provision the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or other category of persons who may be received in the home. 30 35

(2) If any condition imposed by or under subsection (1) of this section is not complied with, the person carrying on the home shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds ; and without prejudice to the foregoing provision the power of the registration authority to cancel registration under subsection (4) of section thirty-seven of the National Assistance Act, 1948, shall include power to cancel the registration on the ground that any such condition has not been complied with. 40 45

(3) In relation to residential homes for mentally disordered persons, section forty of the National Assistance Act, 1948, shall have effect as if paragraph (a) of subsection (1) of that section (which enables the Minister to make regulations for purposes corresponding with subsection (1) of this section) were omitted.

A.D. 1959

PART III

—cont.

21.—(1) The power of the Minister to make regulations under section forty of the National Assistance Act, 1948, with respect to the conduct of residential homes for mentally disordered persons shall include power to make regulations as to the records to be kept and notices to be given in respect of persons received in such homes.

Records and inspection of residential homes.

(2) The powers of inspection conferred by section thirty-nine of the said Act, in its application to residential homes for mentally disordered persons, shall include power to inspect any records required to be kept in accordance with regulations made by virtue of subsection (1) of this section under section forty of that Act.

22.—(1) Subject to the provisions of this section, a mental welfare officer of a local health authority may, at all reasonable times, after producing, if asked to do so, some duly authenticated document showing that he is such an officer, enter and inspect any premises in the area of that authority in which a mentally disordered patient is living, if he has reasonable cause to believe that the patient is not under proper care.

Powers of entry and inspection of other premises.

(2) A mental welfare officer shall not have power under this section to enter and inspect any premises which are subject to inspection under the foregoing provisions of this Part of this Act, or under section thirty-nine of the National Assistance Act, 1948.

23.—(1) The registration authority may prosecute for any offence under this Part of this Act, or any enactment thereby applied.

Prosecution of offences.

(2) Section two hundred and ninety-eight of the Public Health Act, 1936 (which restricts the right to prosecute for offences under that Act) shall not apply to offences under Part VI of that Act in respect of mental nursing homes.

24. In relation to the administrative county of London the provisions of this Part of this Act shall have effect as if for any reference to Part VI of the Public Health Act, 1936, there were substituted a reference to Part XI of the Public Health (London) Act, 1936, and as if for references to sections one hundred and eighty-eight, one hundred and ninety, one hundred and ninety-one and one hundred and ninety-two of the Public Health Act, 1936, there were substituted respectively references to

Application to London.

- A.D. 1959 sections two hundred and forty-two, two hundred and forty-four,
 PART III two hundred and forty-five and two hundred and forty-six of the
 —cont. Public Health (London) Act, 1936.

PART IV

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

5

Procedure for hospital admission

Admission for
 observation.

25.—(1) An application for the admission of a patient to a hospital under this section (in this Act referred to as an application for admission for observation) may be made on the ground—

10

- (a) that the patient is suffering from mental disorder of a nature or degree which renders him suitable to be detained in a hospital for observation; and
- (b) that it is expedient in the interests of the patient or for the protection of other persons that the patient should be so detained.

15

(2) 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 (1) of this section are complied with.

20

(3) A patient who is admitted to a hospital under this section 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 for any longer period unless in the meantime he has been re-admitted in pursuance of an application for admission for treatment under the following provisions of this Part of this Act.

25

Admission for
 treatment.

26.—(1) An application for the admission of a patient to a hospital under this section (in this Act referred to as an application for admission for treatment) may be made on the ground—

30

- (a) that the patient is suffering from mental disorder, being—
 - (i) in any case, mental illness or severe sub-normality;
 - (ii) in the case of a patient under the age of twenty-one years, psychopathic disorder or sub-normality,

35

and that his disorder is of a nature or degree which renders him suitable to be detained in a hospital for treatment; and

40

- (b) that it is necessary in the interests of the patient or for the protection of other persons that the patient should be so detained.

45

A.D. 1959

PART IV

—cont.

(2) 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 5 paragraphs (a) and (b) of subsection (1) 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
- 10 (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.

15 (3) 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 (1) of this section; but the application shall be of no effect unless the patient is 20 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.

(4) An application for admission for treatment made on the 25 ground that the patient is suffering from psychopathic disorder or subnormality, and no other form of mental disorder referred to in subsection (1) 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 30 twenty-one years.

27.—(1) 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; but an application for admission for treatment shall not be made by a 35 mental welfare officer unless that officer has consulted with the person appearing to be the nearest relative of the patient, or is unable, after taking all practicable steps for the purpose, to communicate with that person, nor if that person, upon such consultation, objects to the making of the application.

40 (2) Every application for admission to a hospital (whether for observation or for treatment) shall be addressed to the managers of the hospital, and shall specify the qualification of the applicant to make the application; and any application for admission for treatment made by a mental welfare officer shall state whether 45 or not the applicant has consulted as aforesaid, and if so shall state that the person so consulted does not object to the application.

A.D. 1959
PART IV
—cont.

(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. 5

General
provisions
as to medical
recommendations.

28.—(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. 15

(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 disorders; 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. 20

(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). 30

(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; 35
- (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; 40
- (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, 45

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
5 recommendation is given for the purposes of the same application.

A.D. 1959

PART IV
—cont.

29.—(1) In any case of urgent necessity, an application for the admission of a patient for observation or for treatment may be made as an emergency application in accordance with the following provisions of this section. Application for admission in case of emergency.

10 (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 first medical recommendation referred to in subsection (3) of this section) that it is of urgent necessity for the patient to be admitted
15 and detained under this Part of this Act, and that compliance with the foregoing provisions of this Part of this Act would involve undesirable delay.

(3) The medical recommendations required for the purposes of an emergency application may be signed after the date of the
20 application; and the application shall be sufficient in the first instance if accompanied by one such recommendation, 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
25 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 for the purposes of the application is given and received by
30 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).

35 (4) Subsections (1) and (2) of section twenty-seven of this Act (except so much of the said subsection (2) as requires the application to be addressed to the managers of the hospital) shall not apply to an emergency application; and subsection (3) of that section shall have effect in relation to such an application as if
40 for the words "fourteen days" there were substituted the words "three days".

A.D. 1959

PART IV

—cont.

Applications
in respect of
patients
already in
hospital.

30.—(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 within that hospital, not being liable to be detained in pursuance of an application under this Part of this Act ; 5
- (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 ; 10

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 it appears to the responsible medical officer that an application ought to be made under this Part of this Act for the admission of a patient who is receiving treatment in a hospital, not being liable to be detained therein under this Part of this Act, that officer 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. 15 20

Effect of
application
for admission.

31.—(1) An application for the admission of a patient to a hospital under this Part of this Act, duly made 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— 25

- (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 ; 30
- (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, 35

and for the managers of the hospital to admit him at any time within that period and thereafter detain him therein in accordance with the provisions of this Act. 40

(2) An application for the admission to hospital of a patient already within that hospital shall, if received by the managers within the period specified in subsection (1) of this section, be sufficient authority for the managers to detain the patient in the hospital in accordance with the provisions of this Act. 45

A.D. 1959

PART IV

—cont.

(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.

32.—(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.

Rectification
of application
and recom-
mendations.

(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

A.D. 1959
PART IV
—cont.

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 (3) 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. 5 10

Procedure for reception into guardianship

Application for
guardianship.

33.—(1) An application for the reception of a patient into guardianship under this Part of this Act (in this Act referred to as a guardianship application) may be made on the ground— 15

(a) that the patient is suffering from mental disorder, being—

(i) in any case, mental illness or severe sub-normality; 20

(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 renders him suitable to be received into guardianship under this Act; and 25

(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.

(2) 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. 30 35

(3) 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. 40

(4) Subsections (2) to (4) 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 45

application for admission for treatment, but subject to the following modifications, that is to say—

A.D. 1959
PART IV
—cont.

- 5 (a) in section twenty-six, references to subsection (1) of that section, and to paragraph (a) or paragraph (b) of that subsection, shall be construed as references to subsection (1) of this section and to paragraph (a) or paragraph (b) of that subsection, and in paragraph (b) of subsection (2) of that section the words from “specifying” to the end of the paragraph shall be omitted;
- 10 (b) in subsection (2) of section twenty-seven the words “shall be addressed to the managers of the hospital, and” shall be omitted;
- 15 (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.—(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.

Effect of
guardianship
application,
etc.

(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

A.D. 1959

PART IV

—cont.

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.

Care and treatment of patients

Regulations
as to
guardianship.

35.—(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.

Correspon-
dence of
patients.

36.—(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) Any postal packet addressed by a patient so detained and delivered by him for dispatch may be withheld from the Post Office if it appears to the responsible medical officer that the packet would be unreasonably offensive to the addressee, or 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 ; but this subsection does not apply to any postal packet addressed as follows, that is to say :—

(a) to the Minister ;

(b) to the member of the Commons House of Parliament representing the constituency in which the patient was resident before being admitted to the hospital ;

A.D. 1959

PART IV
—cont.

- (c) to the Master of the Court of Protection ;
- (d) to the managers of the hospital ;
- (e) to any other authority or person having power to discharge the patient under this Part of this Act ;

5 (f) at any time when the patient is entitled to make application to a Mental Health Review Tribunal, to that tribunal.

(3) Except as provided by this section, it shall not be lawful to prevent or impede the delivery to a patient detained as afore-
10 said 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 a patient and delivered by him for dispatch.

(4) This section shall apply in relation to a patient who is subject to guardianship under this Part of this Act as it applies
15 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

20 (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.

(5) In this section “ postal packet ” has the same meaning as in the Post Office Act, 1953 ; and the provisions of this section
25 shall have effect notwithstanding anything in section fifty-six of that Act.

37.—(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
30 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
35 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
40 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—

45 (a) any medical practitioner authorised by that authority or board ; and

A.D. 1959

PART IV

—cont.

(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.

5

(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.

10

Re-classification of patients.

38.—(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.

15

20

(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 in which he is so informed, apply to a Mental Health Review Tribunal.

25

30

(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.

35

Leave of absence from hospital.

39.—(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.

40

(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.

45

A.D. 1959

PART IV

—cont.

(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, impose the condition that the patient remains in custody during his absence; and where leave of absence is granted subject to that condition 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 leave of absence has been granted to a patient under this section, and 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, 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 the expiration of the period of six months beginning with the first day of his absence on leave, or the period for which that leave was granted, whichever is the shorter; and (subject to the following provisions of this Part of this Act) any such patient shall cease to be liable to be detained in the hospital at the expiration of the said period of six months unless before the expiration of that period the patient—

(a) has been recalled under the said subsection (4); or

(b) not having been so recalled, either has returned to the hospital or has been transferred to another hospital or into guardianship under the following provisions of this Part of this Act relating to the transfer of patients,

or unless at the expiration of that period the patient is absent from the hospital, having failed to return thereto at the expiration of a specified period for which leave of absence was granted under this section (being a period of less than six months), or having absented himself without permission from any place where he was required to reside in accordance with conditions imposed on the grant of leave of absence under this section.

40.—(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

Return and
re-admission of
patients absent
without leave.

A.D. 1959
PART IV
—cont.

conditions imposed on the grant of leave of absence under that section,

he may, within the period allowed by 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. 5

(2) Where a patient who is for the time being subject to guardianship under this Part of this Act is absent without the permission of the guardian from the place at which he is required by the guardian to reside, he may, within the period allowed by 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. 10 15

(3) A patient may be taken into custody under this section within the following period (beginning with the day upon which he becomes liable to be so taken under paragraph (a), (b) or (c) of subsection (1), or under subsection (2), of this section, as the case may be), that is to say— 20

(a) in the case of a patient over the age of twenty-one years 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 being a person suffering from psychopathic disorder or subnormality, six months; 25

(b) in any other case, twenty-eight days;

and (subject to the following provisions of this Part of this Act) 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. 30

Regulations
as to transfer
of patients.

41.—(1) In such circumstances and subject to such conditions as may be prescribed by regulations made by the Minister— 35

(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; 40

(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. 45

(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.D. 1959

PART IV

—cont.

- 5 (a) where the patient, being liable to be detained in a hospital by virtue of an application for admission, 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 ;
- 10 (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 ;
- 15 (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 ;
- 20 (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.
- 25

(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.

30

35

40 (4) Regulations made under this section may make provision for the removal in custody of any patient to be transferred to a hospital or into guardianship in pursuance of the regulations or under subsection (3) of this section.

(5) Except in such cases (if any) as may be prescribed by regulations made under this section, a patient who is subject to guardianship by virtue of an application under this Part of this Act shall cease to be so subject if he becomes liable to be detained in a hospital thereunder.

45

A.D. 1959

PART IV
—cont.Transfer of
guardianship
in case of
death,
incapacity, etc.
of guardian.

42.—(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 for 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*

Duration of
authority.

43.—(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 ;

A.D. 1959
PART IV
—cont.

(b) from the expiration of any period of renewal under paragraph (a) of this subsection, for a further period of two years ;

5 (c) from the expiration of any further period of renewal under paragraph (b) of this subsection, for a further period of three years,

and so on for periods of three years at a time.

(3) Within the period of two months ending on the day on which a patient would cease to be liable to detention or subject to guardianship in default of the renewal of authority under this section, the responsible medical officer shall examine the patient, and if it appears to him that the detention or guardianship of the patient continues to be required in the interests of the patient or for the protection of other persons, shall furnish—

15 (a) where the patient is subject to detention in a hospital, to the managers ;

(b) where the patient is under guardianship, to the guardian, a report to that effect in the prescribed form ; and where a report is duly furnished under this subsection 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.

(4) In relation to a patient who is subject to the guardianship of a person other than a local health authority, subsection 25 (3) of this section shall have effect as if—

(a) for the reference to the responsible medical officer there were substituted a reference to the nominated medical attendant of the patient ; and

30 (b) for the reference to the guardian there were substituted a reference to the guardian and the responsible local health authority.

(5) 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 35 they discharge the patient, cause him to be informed, and the patient may, within the period of twenty-eight days beginning with the day on which the authority for his detention would have expired in default of renewal under this section, apply to a Mental Health Review Tribunal.

40 44.—(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 Special provisions as to psychopathic and subnormal patients.

A.D. 1959
PART IV
—cont.

application for admission for treatment as a psychopathic or sub-normal 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 to be liable to detention in a hospital in default of the renewal of authority under this subsection, 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 of the hospital or home 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.

Special
provisions as
to patients
absent without
leave.

45.—(1) Notwithstanding anything in section forty-three of this Act, a patient shall not cease under that section to be liable to be detained or subject to guardianship at any time when he is absent from the hospital in which he was detained, or from the place in which he was required by the guardian to reside, as the case may be, and is so absent in circumstances in which he could be taken into custody and returned thereto under section forty of this Act.

(2) Where a patient to whom the said section forty applies—

- (a) is taken into custody and returned under that section to the said hospital or place; or
- (b) not being so taken, returns to that hospital or place during any period within which he could be taken into custody and returned thereto under that section,

the patient shall not cease to be liable to be detained or subject to guardianship under the said section forty-three until the expiration of the period of one week beginning with the date on which he is returned or returns as aforesaid, and any examination

and report under subsection (3) of that section may be made and furnished within that period.

A.D. 1959
PART IV
—cont.

(3) In relation to a patient liable to be detained in a hospital as a psychopathic or subnormal patient, this section shall have effect as if references therein to section forty-three of this Act and to subsection (3) of that section included references to section forty-four of this Act and to subsection (2) of that section.

46.—(1) Without prejudice to any other provision of this Part of this Act, an application for admission for treatment or a guardianship application shall cease to have effect—
Special provisions as to patients sentenced to imprisonment, etc.

(a) if the patient is sentenced by a court to imprisonment or detention for a term of or exceeding the term specified in subsection (3) of this section ;

(b) if an approved school order is made in respect of the patient under the Children and Young Persons Act, 1933;

(c) if the patient becomes liable to be detained or subject to guardianship by virtue of an order or direction under Part V of this Act.

(2) If a patient who is liable to be detained or subject to guardianship under this Part of this Act is sentenced by a court to imprisonment or detention for a term less than the terms specified in subsection (3) of this section, he shall not cease under any of the foregoing provisions of this Act to be liable to be detained or subject to guardianship until the expiration of the period of one week beginning with the end of his sentence, and any examination and report under subsection (3) of section forty-three or subsection (2) of section forty-four of this Act may be made and furnished at any time before the expiration of that period.

(3) The term referred to in paragraph (a) of subsection (1) and in subsection (2) of this section is as follows, that is to say—

(a) where the patient is liable to be detained or subject to guardianship as being a person suffering from psychopathic disorder or subnormality, six months ;

(b) in any other case, twenty-eight days.

(4) In this section “sentence” includes an order, and “sentenced” shall be construed accordingly.

47.—(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. Discharge of patients.

A.D. 1959

PART IV

—cont.

(2) An order for discharge may be made in respect of a patient—

- (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for 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 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, and in the case of a local authority the members so authorised shall be members of the health committee of that authority.

Restrictions on
discharge by
nearest
relative.

48.—(1) Where a patient is admitted to a hospital in pursuance of an application for admission for treatment made as an emergency application, the power of his nearest relative to make an order for his discharge shall not be exercised—

- (a) during the period of twenty-eight days beginning with the day on which he was admitted unless an application to the county court under the following provisions of this Act for the transfer of the functions of that relative has been finally disposed of within that period ; or
- (b) if such an application has been made to the county court before the expiration of that period and has not been finally disposed of during that period, until that application has been finally disposed of ;

and for the purposes of this subsection an application 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 within that time notice of appeal has been given, when the appeal has been heard or withdrawn.

(2) 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.

A.D. 1959

PART IV

—cont.

(3) 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.

(4) In any case where a report under subsection (3) 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.—(1) In this Part of this Act "relative", in relation to a patient, means the patient's husband or wife, father, mother, child, brother or sister of the whole blood, brother or sister of the half blood, grandparent or other next of kin (not being more remote in proximity than a child of a brother or sister, whether of the whole blood or of the half blood); and (subject to the provisions of this section and to the following provisions of this Part of this Act) "nearest relative" in relation to a patient means the person first described in this subsection who is ordinarily resident in the United Kingdom, and if more than one such person fulfils the same description and is equal in degree of proximity to the patient, the elder or eldest of those persons irrespective of sex.

Definition of
relative and
nearest
relative.

(2) A person who has been adopted in pursuance of an adoption order shall be treated for the purposes of this section as being the natural child of the person by whom he was adopted or, if he was adopted by two spouses jointly, of both of them, and not as the child of his own parents; and references in subsection (1) of this section to a relative of any description shall be construed accordingly.

(3) Where the person who, under subsection (1) of this section, would be the nearest relative of a patient—

(a) not being the husband, wife, father or mother of the patient, is for the time being under twenty-one years of age; or

A.D. 1959

PART IV

—cont.

(b) 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.

(4) 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 in force in Northern Ireland (including any enactment of the Parliament of Northern Ireland).

Children and young persons in care of local authority.

50. 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);

(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, to the exclusion of any other person, be deemed to be the nearest relative of the patient.

Nearest relative of infant under guardianship, etc.

51.—(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.

A.D. 1959

PART IV

—cont.

(2) Subsection (3) 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 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 (1) 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.—(1) If it appears to a county court, upon application made under this section in respect of a person alleged to be suffering from mental disorder, that the nearest relative of that person—

Transfer of
functions of
nearest
relative.

(a) unreasonably objects to the making of an application for admission for treatment or a guardianship application under this Part of this Act in respect of him ; or

(b) is likely to exercise, in a manner contrary to the welfare of that person or contrary to the interests of the public, any power to order his discharge from hospital under paragraph (b) of subsection (2) of section forty-seven of this Act ;

the court may order that the functions under this Part of this Act of the nearest relative be transferred to the applicant or, if the court thinks fit, to any other person who in the opinion of the court is a proper person to exercise those functions and is willing to do so.

(2) An order under this section may be made on the application of any relative of the patient concerned or on the application of a mental welfare officer, and 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 order under this section may be made whether or not the patient is already receiving treatment in a hospital, but no such order shall be made on the ground set out in paragraph (b) of subsection (1) of this section in the case of a patient who is detained in a hospital in pursuance of an application for admission for treatment unless—

(a) that application was made as an emergency application under section twenty-nine of this Act ; and

A.D. 1959

PART IV
—cont.

(b) the proceedings under this section were commenced within the period of twenty-eight days beginning with the day on which he was admitted in pursuance of that application.

(4) 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 against whom the order was made has ceased by death or otherwise to be the patient's nearest relative. 5 10

(5) Where the functions of the nearest relative of a patient are transferred to any other person or authority by an order under this section, the person against whom the order was made 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. 15 20

Discharge,
amendment
and
termination
of orders for
transfer of
functions.

53.—(1) At any time while an order under section fifty-two of this Act is in force, the county court may—

(a) if some person other than the person against whom the order was made becomes the nearest relative of the patient, upon application made by the first-mentioned person, discharge the order ; or 25

(b) upon application made by the person exercising the functions of the nearest relative by virtue of the order, or by a mental welfare officer, vary the order by transferring the said functions to 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, but the discharge or variation of an order under this subsection shall not affect the validity of anything previously done there- 30 35 under.

(2) If the person having the functions of the nearest relative by virtue of such an order dies, the power of variation conferred by paragraph (b) of the foregoing subsection shall also be exercisable on application made by any relative of the patient or by a mental welfare officer, and the order, so far as it operates to transfer the functions of the nearest relative from the person against whom it was made, shall continue in force as if the death had not occurred. 40

(3) Where a patient who was admitted to a hospital or received into guardianship upon application made under this Part of this 45

Act by or after consultation with a person exercising the functions of his nearest relative by virtue of an order under the said section fifty-two ceases to be liable to be detained or subject to guardianship (otherwise than upon being transferred in pursuance of regulations under section forty-one of this Act), the order under the said section fifty-two shall thereupon cease to have effect.

A.D. 1959

PART IV
—cont.*Supplemental*

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

Procedure on applications to county court.

(a) for the hearing and determination of such applications otherwise than in open court ;

15 (b) for the admission of any evidence given on such applications 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.

20 **55.—**(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.

Regulations for purposes of Part IV.

25 (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 ;

30 (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 ;

35 (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

40 (d) for the determination in accordance with the regulations of the age of any person whose exact age cannot be ascertained by reference to the registers kept under the Births and Deaths Registration Act, 1953 ;

and for the purposes of this Part of this Act any such application, report or notice as is mentioned in this subsection shall be deemed to have been received by or furnished to the authority

A.D. 1959
PART IV
—cont.

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. 5 10

Power of
Minister to
refer to
Tribunal.

56. 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. 15

Special
provisions as
to wards of
court.

57.—(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 in relation to an application so made subsection (1) of section twenty-seven of this Act shall have effect as if the words from “but an application” to the end of the subsection were omitted. 20

(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. 25

(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. 30

Interpretation
of Part IV.

58.—(1) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:— 35

“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; 40

(b) in relation to a State institution, the Minister;

A.D. 1959

PART IV

—cont.

(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 ;

5 “ 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 ;

10 “ 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 ;

15 (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.

20 (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 a 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
30 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.

40 (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 ;

45 (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.

A.D. 1959

PART V

ADMISSION OF PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS,
ETC. AND TRANSFER OF PATIENTS UNDER SENTENCE.*Provisions for compulsory admission or guardianship of patients
convicted of criminal offences, etc.*Powers of
courts to
order hospital
admission or
guardianship.

59.—(1) Where a person is convicted before a court of assize or quarter sessions of an offence other than an offence the sentence for which is fixed by law, or is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment, and the following conditions are satisfied, 10 that is to say:—

(a) the court is satisfied, on the written or oral evidence of two medical practitioners (complying with the provisions of section sixty-one of this Act),—

(i) that the offender is suffering from mental illness, 15 psychopathic disorder, subnormality or severe subnormality; and

(ii) that his mental disorder is of a nature or degree which renders him suitable to be detained in a hospital for treatment or to be received into guardianship 20 under this Act; and

(b) the court is of opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him, that the 25 most suitable method of disposing of the case is by means of an order under this section,

the court may by order authorise his admission to and detention in such hospital as may be specified in the order or, as the case may be, place him under the guardianship of a local 30 health authority or of such other person approved by a local health authority as may be so specified.

(2) Where a person is charged before a magistrates' court with any act or omission as an offence and the court would have power, on convicting him of that offence, to make an order under 35 subsection (1) of this section in his case as being a person suffering from mental illness or severe subnormality, then if the court is satisfied that the accused did the act or made the omission charged the court may, if it thinks fit, make such an order without convicting him. 40

(3) An order for the admission of an offender to a hospital (in this Part of this Act referred to as a hospital order) shall not be made under this section unless the court is satisfied that arrangements have been made for the admission of the offender to that hospital in the event of such an order being made by 45

the court, and for his admission thereto within a period of twenty-eight days beginning with the date of the making of such an order.

A.D. 1959

PART V

—cont.

(4) An order placing an offender under the guardianship of a local health authority or of any other person (in this Part of this Act referred to as a guardianship order) shall not be made under this section unless the court is satisfied that that authority or person is willing to receive the offender into guardianship.

(5) A hospital order or guardianship order shall specify the form or forms of mental disorder referred to in paragraph (a) of subsection (1) of this section from which, upon the evidence taken into account under that paragraph, the offender is found by the court to be suffering; and no such order shall be made unless the offender is described by each of the practitioners whose evidence is taken into account as aforesaid as suffering from the same one of those forms of mental disorder, whether or not he is also described by either of them as suffering from another of those forms.

(6) Where an order is made under this section the court shall not pass sentence of imprisonment or impose a fine or make a probation order in respect of the offence, but may make any other order which the court has power to make apart from this section; and for the purposes of this subsection "sentence of imprisonment" includes any sentence or order for detention, including an order sending an offender to an approved school.

60.—(1) If in the case of a child or young person brought before a juvenile court under section sixty-two or section sixty-four of the Children and Young Persons Act, 1933,—

Additional powers in respect of children and young persons.

(a) the court is satisfied that the child or young person is in need of care or protection, or that his parent or guardian is unable to control him, as the case may be; and

(b) the conditions which, under section fifty-nine of this Act, are required to be satisfied for the making of a hospital order or guardianship order in respect of a person convicted as therein mentioned are satisfied in the case of the child or young person,

the court shall have the like power to make a hospital order or guardianship order as if the child or young person had been convicted by the court of an offence punishable on summary conviction; and the provisions of the said section fifty-nine shall with the necessary modifications apply accordingly.

(2) A juvenile court shall not make a hospital order or guardianship order in respect of a person brought before the court under section sixty-four of the Children and Young Persons

A.D. 1959

PART V
—cont.

Act, 1933, as being beyond the control of his parent or guardian unless the court is satisfied that the parent or guardian understands the results which will follow from the order and consents to its being made.

(3) Where a hospital order is made by virtue of this section in respect of a child or young person, the court may also make an order committing him to the care of a fit person under the Children and Young Persons Act, 1933; but except as aforesaid no order shall be made under section sixty-two or sixty-four of that Act in conjunction with a hospital order or guardianship order. 5 10

Requirements
as to medical
evidence.

61.—(1) Of the medical practitioners whose evidence is taken into account under paragraph (a) of subsection (1) of section fifty-nine of this Act, at least one shall be a practitioner approved for the purposes of section twenty-eight of this Act by a local health authority as having special experience in the diagnosis or treatment of mental disorders. 15

(2) For the purposes of the said paragraph (a) a report in writing purporting to be signed by a medical practitioner qualified to give evidence under that paragraph may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the practitioner; but the court may in any case require that the practitioner by whom such a report was signed be called to give oral evidence. 20

(3) Where, in pursuance of directions of the court, any such report as aforesaid is tendered in evidence otherwise than by or on behalf of the accused, then— 25

- (a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor; 30
- (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, where he is a child or young person, to his parent or guardian if present in court;
- (c) in any case, the accused may require that the practitioner by whom the report was signed be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused. 35

(4) In relation to a child or young person brought before a juvenile court under section sixty-two or section sixty-four of the Children and Young Persons Act, 1933, subsection (3) of this section shall have effect as if for references to the accused 40

there were substituted references to the child or young person ; and in the case of a child or young person brought before the court under the said section sixty-four paragraphs (a) to (c) of that subsection shall have effect as if those references included references to his parent or guardian, and as if in the said paragraph (b) the words from "or, where" to the end of the paragraph were omitted.

A.D. 1959

PART V
—cont.

62.—(1) A hospital order shall be sufficient authority—

Effects of
hospital
order and
guardianship
order.

10 (a) for a constable, a mental welfare officer or any other person directed by the court to convey the patient to the hospital specified in the order within a period of twenty-eight days ; and

15 (b) for the managers of the hospital to admit him at any time within that period and thereafter detain him in accordance with the provisions of this Act.

(2) A guardianship order shall confer on the authority or person therein named as guardian the like powers as a guardianship application made and accepted under Part IV of this Act.

20 (3) A patient who is admitted to a hospital in pursuance of a hospital order, or placed under guardianship by a guardianship order, shall be treated for the purposes of Part IV of this Act (other than the provisions of sections twenty-five to thirty-four, relating to the making and effects of applications thereunder) as if he had been so admitted or placed on the date of the order in pursuance of an application for admission for treatment or a guardianship application, as the case may be, duly made under the said Part IV, except that—

30 (a) the power to order the discharge of the patient under section forty-seven shall not be exercisable by his nearest relative ; and

35 (b) the special provisions relating to the expiration and renewal of authority for detention and guardianship in the case of psychopathic and subnormal patients shall not apply ;

and accordingly the provisions of the said Part IV specified in the first column of the Third Schedule to this Act shall apply in relation to him subject to the exceptions and modifications set out in the second column of that Schedule.

40 (4) Without prejudice to any provision of Part IV of this Act as applied by this section, an application to a Mental Health Review Tribunal may be made in respect of a patient admitted to a hospital in pursuance of a hospital order, or placed under

A.D. 1959 guardianship by a guardianship order, as follows, that is to
 PART V say—
 —cont.

- (a) by the patient, within the period of six months beginning with the date of the order or with the day on which he attains the age of sixteen years, whichever is the later ; 5
- (b) by the nearest relative of the patient, within the period of twelve months beginning with the date of the order, and in any subsequent period of twelve months.

Supplementary provisions as to hospital orders.

63.—(1) The court by which a hospital order is made may give such directions as it thinks fit for the conveyance of the 10 patient to a place of safety and his detention therein pending his admission to the hospital within the period of twenty-eight days referred to in subsection (1) of section sixty-two of this Act.

(2) If during the said period the patient escapes from a place 15 of safety in which he is detained, or escapes from the custody of any person authorised to convey him to such a place or to the hospital specified in the hospital order, the patient may, at any time within the period specified in subsection (4) of this section, be taken into custody by any constable, any mental 20 welfare officer, or any other person authorised to convey him as aforesaid, and may either be taken back to a place of safety or conveyed to the hospital in pursuance of the order.

(3) If within the said period of twenty-eight days it appears to the Minister that by reason of an emergency or other special 25 circumstances it is not practicable for the patient to be received into the hospital specified in the order, he may give directions for the admission of the patient to such other hospital as appears to be appropriate in lieu of the hospital so specified ; and where such directions are given the Minister shall cause the person 30 having the custody of the patient to be informed, and the hospital order shall have effect as if the hospital specified in the directions were substituted for the hospital specified in the order.

(4) The period within which a patient may be taken into custody under subsection (2) of this section is as follows, that 35 is to say—

- (a) where the hospital order specifies as the form or forms of mental disorder from which the patient is suffering psychopathic disorder or subnormality and no other form of mental disorder, six months ; 40
- (b) in any other case, twenty-eight days ;

and in computing for the purposes of section sixty-two of this Act and of this section the period of twenty-eight days referred to in subsection (1) of the said section sixty-two, any time during which the patient is at large before being taken into custody as 45 aforesaid shall be disregarded.

A.D. 1959

PART V

—cont.

Power of
higher courts
to restrict
discharge from
hospital.

64.—(1) Where a hospital order is made in respect of an offender by a court of assize or quarter sessions, and it appears to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large, that it is necessary for the protection of the public so to do, the court may, subject to the provisions of this section, further order that the offender shall be subject to the special restrictions set out in this section, either without limit of time or during such period as may be specified in the order.

10 (2) An order under this section (in this Act referred to as an order restricting discharge) shall not be made in the case of any person unless at least one of the medical practitioners whose evidence is taken into account by the court under paragraph (a) of subsection (1) of section fifty-nine of this Act has given evidence orally before the court.

(3) The special restrictions applicable to a patient in respect of whom an order restricting discharge is in force are as follows, that is to say:—

20 (a) none of the provisions of Part IV of this Act relating to the duration and renewal of authority for detention under hospital orders, or to the expiration of such orders, shall apply, and the patient shall continue to be liable to be detained by virtue of the relevant hospital order until he is duly discharged under the said Part IV or absolutely discharged under the next following section;

30 (b) no application shall be made to a Mental Health Review Tribunal in respect of the patient under section sixty-two of this Act or under any provision of the said Part IV;

(c) the following powers shall be exercisable only with the consent of the Secretary of State, that is to say—

35 (i) power to grant leave of absence to the patient under section thirty-nine of this Act;

(ii) power to transfer the patient in pursuance of regulations under section forty-one of this Act; and

(iii) power to order the discharge of the patient under section forty-seven of this Act;

40 and if leave of absence is granted under the said section thirty-nine the power to recall the patient under that section shall be vested in the Secretary of State as well as the responsible medical officer; and

(d) the power of the Secretary of State to recall the patient under the said section thirty-nine, and the power to take

A.D. 1959

PART V

—cont.

the patient into custody and return him under section forty or subsection (2) of section sixty-three of this Act, may be exercised at any time ;

and in relation to any such patient the provisions of the said Part IV described in the first column of the Third Schedule to this Act shall have effect subject to the exceptions and modifications set out in the third column of that Schedule in lieu of those set out in the second column of that Schedule. 5

(4) Where an order restricting the discharge of a patient ceases to have effect while the relevant hospital order continues in force, the provisions of section sixty-two of this Act and the Third Schedule to this Act shall apply to the patient as if he had been admitted to the hospital in pursuance of a hospital order without an order restricting his discharge, made on the date on which the order restricting his discharge ceased to have effect. 10 15

Powers of
Secretary of
State in respect
of patients
subject to
restriction
orders:

65.—(1) If the Secretary of State is satisfied that an order restricting the discharge of a patient is no longer required for the protection of the public, he may direct that the patient shall cease to be subject to the special restrictions set out in section sixty-four of this Act ; and where the Secretary of State so directs, the order restricting the discharge of the patient shall cease to have effect, and subsection (4) of the last foregoing section shall apply accordingly. 20

(2) At any time while an order restricting the discharge of a patient is in force, the Secretary of State may, if he thinks fit, by warrant discharge the patient from hospital, either absolutely or subject to conditions ; and where a person is absolutely discharged under this subsection, he shall thereupon cease to be liable to be detained by virtue of the relevant hospital order, and the order restricting his discharge shall cease to have effect accordingly. 25 30

(3) The Secretary of State may at any time during the continuance in force of an order restricting the discharge of a patient who has been conditionally discharged under the last foregoing subsection, by warrant recall the patient to such hospital as may be specified in the warrant ; and thereupon— 35

(a) if the hospital so specified is not the hospital from which the patient was conditionally discharged, the hospital order and the order restricting his discharge shall have effect as if the hospital specified in the warrant were substituted for the hospital specified in the hospital order ; 40

(b) in any case, the patient shall be treated for the purposes of section forty of this Act (as it applies in relation to a patient subject to an order restricting his discharge) as if he had absented himself without leave from the hospital specified in the warrant, and if the order 45

restricting his discharge was made for a specified period that period shall be extended until the patient is returned to the hospital under that section.

A.D. 1959

PART V

—cont.

(4) If an order restricting the discharge of a patient ceases to have effect after the patient has been conditionally discharged under this section, the patient shall, unless previously recalled under the last foregoing subsection, be deemed to be absolutely discharged on the date when the order ceases to have effect, and shall cease to be liable to be detained by virtue of the relevant hospital order accordingly.

(5) The Secretary of State may, if satisfied that the attendance at any place in Great Britain of a patient who is subject to an order restricting discharge is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place; and where a patient is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place and while being taken back to the hospital in which he is liable to be detained.

(6) The Secretary of State may at any time refer to a Mental Health Review Tribunal for their advice the case of a patient who is for the time being subject to an order restricting his discharge.

66.—(1) If in the case of a person of or over the age of fourteen years who is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment—

Power of magistrates' courts to commit for restriction order.

(a) the conditions which, under subsection (1) of section fifty-nine of this Act, are required to be satisfied for the making of a hospital order are satisfied in respect of the offender; but

(b) it appears to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large, that if a hospital order is made an order restricting his discharge should also be made,

the court may, instead of making a hospital order or dealing with him in any other manner, commit him in custody to quarter sessions to be dealt with in respect of the offence.

(2) Subsection (2) of section twenty-nine of the Criminal Justice Act, 1948 (which specifies the court of quarter sessions by which an offender committed to quarter sessions for sentence is to be dealt with) shall apply in relation to the committal of an offender under this section as it applies in relation to the committal of an offender for sentence under section twenty-nine of the Magistrates' Courts Act, 1952.

A.D. 1959

PART V

—cont.

(3) Where an offender is committed to quarter sessions under this section, the court of quarter sessions shall inquire into the circumstances of the case and may—

(a) if that court would have power so to do under the foregoing provisions of this Part of this Act upon the conviction of the offender before that court of such an offence as is described in subsection (1) of section fifty-nine of this Act, make a hospital order in his case, with or without an order restricting his discharge; 5

(b) if the court does not make such an order, deal with the offender in any other manner in which the magistrates' court might have dealt with him; 10

and the Poor Prisoners Defence Act, 1930, shall apply as if the offender were committed for trial for an indictable offence, subject to the modifications specified in subsections (4) and (5) of section eighteen of the Legal Aid and Advice Act, 1949. 15

(4) The power of a magistrates' court under section twenty-nine of the Magistrates' Courts Act, 1952 (which enables such a court to commit an offender to quarter sessions where the court is of opinion that greater punishment should be inflicted for the offence than the court has power to inflict) shall also be exercisable by a magistrates' court where it is of opinion that greater punishment should be inflicted as aforesaid on the offender unless a hospital order is made in his case with an order restricting his discharge. 20 25

(5) The power of a court of quarter sessions to make a hospital order, with or without an order restricting discharge, in the case of a person convicted before that court of an offence may, in the like circumstances and subject to the like conditions, be exercised by such a court in the case of a person committed to the court under section five of the Vagrancy Act, 1824 (which provides for the committal to quarter sessions of persons being incorrigible rogues within the meaning of that section). 30

Committal to hospital under s. 66.

67.—(1) Where an offender is committed under subsection (1) of section sixty-six of this Act and the magistrates' court by which he is committed is satisfied that arrangements have been made for the admission of the offender to a hospital in the event of an order being made under this section, the court may, instead of committing him in custody, by order direct him to be admitted to that hospital, specifying it, and to be detained there until the case is disposed of by quarter sessions, and may give such directions as it thinks fit— 35 40

(a) for the conveyance of the offender to a place of safety and his detention there pending his admission to the hospital; and 45

(b) for his production from the hospital to attend the court of quarter sessions by which his case is to be dealt with.

A.D. 1959

PART V
—cont.

(2) During the period for which a person is liable to be detained in pursuance of an order made under this section, the order shall have like effect as a hospital order together with an order restricting his discharge, made without limitation of time, and the provisions of this Part of this Act (including the Third Schedule to this Act) relating to such orders, and to persons subject thereto, shall apply accordingly.

(3) Where an order has been made under this section in respect of an offender, the notice of the date on which the case will be dealt with required by subsection (2) of section twenty-nine of the Criminal Justice Act, 1948, to be given by the clerk of the peace to the governor of the prison or remand centre shall instead be given to the managers of the hospital in which he is detained.

15 68.—(1) Where an order restricting discharge is made by a court of quarter sessions in respect of a person committed under section twenty-nine of the Magistrates' Courts Act, 1952, under section five of the Vagrancy Act, 1824, or under section sixty-six of this Act, that person may appeal to the Court of Criminal Appeal against the order in like manner as against an order made on his conviction on indictment, and the provisions of the Criminal Appeal Act, 1907, shall apply accordingly.

(2) On any appeal to the Court of Criminal Appeal against an order restricting the discharge of an offender (including an appeal under subsection (1) of this section) the court shall have the like powers under subsection (3) of section four of the Criminal Appeal Act, 1907, as if the appeal were an appeal against the hospital order in respect of him as well as against the order restricting his discharge.

30 (3) On any appeal to the Court of Criminal Appeal by an offender against a hospital order or guardianship order, the court shall have the like powers under subsection (3) of the said section four as if the appeal were an appeal against any further order made by the court which made the hospital order or guardianship order, as well as against the hospital order or guardianship order.

69.—(1) Where on the trial of an information charging a person with an offence a magistrates' court makes a hospital order or guardianship order in respect of him without convicting him, he shall have the like right of appeal against the order as if it had been made on his conviction; and on any such appeal quarter sessions shall have the like powers as if the appeal had been against both conviction and sentence.

(2) Where a juvenile court, on being satisfied that a child or young person brought before the court is in need of care or protection or that his parent or guardian is unable to control him, makes such an order as aforesaid, the child or young person may appeal to quarter sessions against the order.

A.D. 1959
PART V
—cont.

(3) An appeal by a child or young person with respect to whom any such order has been made, whether the appeal is against the order or against the finding upon which the order was made, may be brought by him or by his parent or guardian on his behalf.

Persons
ordered to
be kept in
custody during
Her Majesty's
pleasure.

70.—(1) The Secretary of State may by warrant direct that any person who, by virtue of any enactment to which this section applies, is required to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known, shall be removed to and detained in such hospital (not being a mental nursing home) as may be specified in the warrant.

(2) The enactments to which this section applies are section two of the Criminal Lunatics Act, 1800, section two of the Trial of Lunatics Act, 1883, subsection (4) of section five of the Criminal Appeal Act, 1907, subsection (4) of section six of the Courts-Martial (Appeals) Act, 1951, section one hundred and sixteen of the Army Act, 1955, section one hundred and sixteen of the Air Force Act, 1955, and section sixty-three of the Naval Discipline Act, 1957.

(3) A direction under this section in respect of any person shall have the like effect as a hospital order together with an order restricting his discharge, made without limitation of time, and on his admission to a hospital in pursuance of the direction the provisions of this Part of this Act (including the Third Schedule to this Act) relating to such orders, and to persons subject thereto, shall apply accordingly.

(4) Where the Secretary of State is notified by the responsible medical officer that a person detained in a hospital, being a person ordered under section two of the Criminal Lunatics Act, 1800, to be kept in custody, no longer requires treatment for mental disorder, the Secretary of State may remit that person to prison, or to a remand centre provided under section forty-three of the Prison Act, 1952, for trial at the next quarter sessions or, as the case may be, assizes for the place where, but for the order, he would have been tried.

Transfer to hospital or guardianship of prisoners, etc.

Removal to
hospital of
persons
serving
sentences of
imprisonment,
etc.

71.—(1) If in the case of a person serving a sentence of imprisonment the Secretary of State is satisfied, by reports from at least two medical practitioners (complying with the provisions of this section)—

- (a) that the said person is suffering from mental illness, psychopathic disorder, subnormality or severe subnormality; and
- (b) that the mental disorder of that person is of a nature or degree which renders him suitable to be detained in a hospital for treatment;

the Secretary of State may, if he is of opinion having regard to the public interest and all the circumstances that it is expedient so to do, by warrant direct that that person be removed to and detained in such hospital (not being a mental nursing home) as
5 may be specified in the direction.

(2) A direction under this section (in this Act referred to as a transfer direction) shall cease to have effect at the expiration of the period of fourteen days beginning with the date on which it is given unless within that period the person with respect to
10 whom it was given has been removed to the hospital specified therein.

(3) A transfer direction with respect to any person shall have the like effect as a hospital order made in his case without an order restricting his discharge, and the provisions of this Part of
15 this Act (including the Third Schedule to this Act) relating to hospital orders, and to persons subject thereto, shall apply accordingly.

(4) Of the medical practitioners whose reports are taken into account under subsection (1) of this section, at least one shall
20 be a practitioner approved for the purposes of section twenty-eight of this Act by a local health authority as having special experience in the diagnosis or treatment of mental disorders.

(5) A transfer direction shall specify the form or forms of mental disorder referred to in paragraph (a) of subsection (1)
25 of this section from which, upon the reports taken into account under that subsection, the patient is found by the Secretary of State to be suffering; and no such direction shall be given unless the patient is described in each of those reports as suffering from the same one of those forms, whether or not he is also described
30 in either of them as suffering from another of those forms.

(6) References in this section to a person serving a sentence of imprisonment include references—

(a) to a person detained in pursuance of any sentence or order for detention made by a court in criminal proceedings, or made or having effect as if made in any
35 proceedings under the Children and Young Persons Act, 1933 (other than an order under any enactment to which section seventy of this Act applies or an order for detention in a remand home under section fifty-four or in a place of safety under section sixty-seven of the said Act of 1933);
40

(b) to a person committed to custody under subsection (3) of section ninety-one of the Magistrates' Courts Act, 1952 (which relates to persons who fail to comply with
45 an order to enter into recognisances to keep the peace or be of good behaviour); and

A.D. 1959

PART V

—cont.

A.D. 1959
PART V
—cont.

- (c) to a person committed by a court to a prison or other institution to which the Prison Act, 1952, applies in default of payment of any sum adjudged to be paid on his conviction.

Removal to
hospital of
other
prisoners.

72.—(1) If in the case of a person to whom this section applies the Secretary of State is satisfied by the like reports as are required for the purposes of the last foregoing section that that person is suffering from mental illness or severe subnormality of a nature or degree which renders him suitable to be detained in a hospital for treatment, the Secretary of State shall have the like power of giving a transfer direction in respect of him under that section as if he were serving a sentence of imprisonment.

(2) This section applies to the following persons, that is to say—

- (a) persons committed in custody for trial at assizes or quarter sessions ;
- (b) persons committed in custody to quarter sessions under section twenty-eight or section twenty-nine of the Magistrates' Courts Act, 1952, section five of the Vagrancy Act, 1824, or section sixty-six of this Act ;
- (c) persons remanded in custody by a court of assize or quarter sessions to await a judgment or sentence which has been respited ;
- (d) persons remanded in custody by a magistrates' court ;
- (e) civil prisoners, that is to say, persons committed by a court to prison for a limited term (including persons committed to prison in pursuance of a writ of attachment), not being persons falling to be dealt with under section seventy-one of this Act ;
- (f) aliens detained in a prison or other institution to which the Prison Act, 1952, applies, in pursuance of the Aliens Order 1953, or any order amending or replacing that Order.

(3) Subsections (2) to (5) of the last foregoing section shall apply for the purposes of this section and of any transfer direction given by virtue of this section as they apply for the purposes of that section and of any transfer direction thereunder.

Restriction on
discharge of
prisoners
removed to
hospital.

73.—(1) Where a transfer direction is given in respect of any person, the Secretary of State, if he thinks fit, may by warrant further direct that that person shall be subject to the special restrictions set out in section sixty-four of this Act ; and where the Secretary of State gives a transfer direction in respect of any

such person as is described in paragraphs (a) to (d) of subsection (2) of the last foregoing section, he shall also give a direction under this section applying the said restrictions to him.

A.D. 1959

PART V

—cont.

5 (2) A direction under this section (in this Act referred to as a direction restricting discharge) shall have the like effect as an order restricting the discharge of the patient made under the said section sixty-four, and accordingly, while the direction is in force, the provisions of this Part of this Act (including the
10 Third Schedule to this Act) shall apply as they apply in the case of an order restricting the discharge of a person subject to a hospital order.

(3) If a direction restricting the discharge of a patient ceases to have effect while the relevant transfer direction continues in
15 force, the provisions of this Part of this Act (including the said Third Schedule), as applied by subsection (3) of section seventy-one of this Act, shall apply in relation to the patient as if the transfer direction had been given on the date when the direction restricting discharge so ceased to have effect.

20 74.—(1) Where a transfer direction and a direction restricting discharge have been given in respect of a person serving a sentence of imprisonment (other than a person detained in a remand home) and the Secretary of State is notified by the responsible medical officer at any time before the expiration
25 of that person's sentence that that person no longer requires treatment for mental disorder, the Secretary of State may—

(a) by warrant direct that he be remitted to any prison or other institution in which he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed; or

30 (b) exercise, or authorise the Prison Commissioners or, as the case may be, the managers of any approved school to which he might have been remitted to exercise, any power of releasing him on licence or discharging him under supervision which would have been exercisable if he had been remitted to such a prison or
35 institution as aforesaid,

and on his arrival in the prison or other institution or, as the case may be, his release or discharge as aforesaid, the transfer
40 direction and the direction restricting discharge shall cease to have effect.

(2) A direction restricting the discharge of a person serving a sentence of imprisonment (including an order for detention in a remand home under section sixty-nine of the Children and
45 Young Persons Act, 1933), shall cease to have effect on the expiration of the sentence.

A.D. 1959

PART V
—cont.

(3) Subject to the next following subsection, references in this section to the expiration of a person's sentence are references to the expiration of the period during which he would have been liable to be detained in a prison or other institution if the transfer direction had not been given.

(4) For the purposes of subsection (2) of section forty-nine of the Prison Act, 1952 (which provides for discounting from the sentence of certain prisoners periods while they are unlawfully at large) a patient who, having been transferred in pursuance of a transfer direction from any such institution as is referred to in that subsection, is absent from the hospital in which he is liable to be detained in pursuance of that direction, and is so absent in circumstances in which he could be taken into custody and returned thereto under section forty of this Act, shall be treated as unlawfully at large and absent from that institution.

Further
provisions as
to persons
committed for
trial or
sentence, etc.

75.—(1) Any transfer direction given in respect of any such person as is described in paragraphs (a) to (c) of subsection (2) of section seventy-two of this Act shall cease to have effect when his case is disposed of by the court to which he was committed or by which he was remanded, as the case may be, but without prejudice to any power of that court to make a hospital order or other order under this Part of this Act in his case.

(2) Where a transfer direction has been given in respect of any such person as aforesaid, then—

(a) if the Secretary of State is notified by the responsible medical officer at any time before that person is brought before the court to which he was committed or by which he was remanded that he no longer requires treatment for mental disorder, the Secretary of State may by warrant direct that he be remitted to any place where he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed;

(b) if (no such direction having been given) it appears to that court that it is impracticable or inappropriate to bring that person before the court and the conditions set out in the next following subsection are satisfied, the court may make a hospital order (with or without an order restricting discharge) in his case in his absence and, in the case of a person committed for trial, without convicting him.

(3) A hospital order may be made in respect of a person under paragraph (b) of the last foregoing subsection if the court is satisfied, on the oral evidence of at least two medical prac-

A.D. 1959

PART V
—cont.

tioners (complying with subsection (1) of section sixty-one of this Act), that that person is suffering from mental illness or severe subnormality of a nature or degree which renders him suitable to be detained in a hospital for treatment, and is of opinion, after considering any depositions or other documents required to be sent to the proper officer of the court, that it is proper to make such an order.

(4) Where a person committed to quarter sessions to be dealt with under section sixty-six of this Act is admitted to a hospital in pursuance of an order under section sixty-seven of this Act, paragraph (b) of subsection (2) and subsection (3) of this section shall apply as if he were a person subject to a transfer direction.

76.—(1) A transfer direction given in respect of a person remanded in custody by a magistrates' court shall cease to have effect on the expiration of the period of remand unless, upon his being brought before the magistrates' court, he is committed in custody for trial at assizes or quarter sessions.

Further provisions as to persons remanded by magistrates' courts.

(2) Where, on the expiration of the period of remand of any such person, he is committed in custody for trial as aforesaid, section seventy-five of this Act shall apply as if the transfer direction given in his case were a direction given in respect of a person so committed.

(3) Where a transfer direction has been given in respect of a person remanded as aforesaid, the power of further remanding him under section one hundred and five of the Magistrates' Courts Act, 1952, may be exercised by the court without his being brought before the court; and if the court further remands such a person in custody (whether or not he is brought before the court) the period of remand shall, for the purposes of this section, be deemed not to have expired.

(4) Where a transfer direction in respect of any person ceases to have effect under this section, then unless the court before which he is brought on the expiration of the period of remand—

(a) passes a sentence of imprisonment (within the meaning of subsection (6) of section fifty-nine of this Act) on him; or

(b) makes a hospital order or guardianship order in his case, he shall continue to be liable to be detained in the hospital in which he was detained under the transfer direction as if he had been admitted thereto, on the date on which that direction ceased to have effect, in pursuance of an application for admission for treatment made under Part IV of this Act describing him as suffering from the form or forms of mental disorder specified in that direction, and the provisions of the said Part IV shall apply accordingly.

A.D. 1959

PART V
—cont.Further
provisions
as to civil
prisoners.

77.—(1) Any transfer direction given in respect of a civil prisoner shall cease to have effect on the expiration of the period during which he would, but for his removal to hospital, be liable to be detained in prison.

(2) Where a transfer direction given in respect of any person ceases to have effect by virtue of this section, he shall continue to be liable to be detained in the hospital in which he was detained under that direction as if he had been admitted thereto, on the date on which the direction ceased to have effect, in pursuance of an application for admission for treatment made under Part IV of this Act describing him as suffering from the form or forms of mental disorder specified in that direction, and the provisions of the said Part IV shall apply accordingly.

Reception into
guardianship
of persons sent
to approved
schools.

78.—(1) If in the case of a child or young person detained in an approved school the Secretary of State is satisfied by the like reports as are required for the purposes of section seventy-one of this Act—

(a) that the child or young person is suffering from mental illness, psychopathic disorder, subnormality or severe subnormality; and

(b) that his mental disorder is of a nature or degree which renders him suitable to be received into guardianship under this Act;

the Secretary of State may, if he is of opinion having regard to the public interest and to all the circumstances that it is expedient so to do, by warrant direct that he be placed under the guardianship of a local health authority or of any such other person approved by a local health authority as may be specified in the direction.

(2) A direction shall not be given under this section placing a person under the guardianship of a local health authority or other person unless the Secretary of State is satisfied that that authority or person is willing to receive that person into guardianship.

(3) A direction under this section with respect to any person shall have the like effect as a guardianship order made in his case, and the provisions of this Part of this Act (including the Third Schedule to this Act) relating to such orders, and to persons subject thereto, shall apply accordingly.

*Supplemental*Interpretation
of Part V.

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

“approved school” means a school approved under section seventy-nine of the Children and Young Persons Act, 1933;

A.D. 1959

PART V

—cont.

“child” and “young person” have the same meaning as in the Children and Young Persons Act, 1933;

“civil prisoner” has the meaning assigned to it by paragraph (e) of subsection (2) of section seventy-two of this Act;

“guardian”, in relation to a child or young person, has the same meaning as in the Children and Young Persons Act, 1933;

“place of safety”, in relation to a person not being a child or young person, means any police station, prison or remand centre, or any hospital the managers of which are willing temporarily to receive him, and in relation to a child or young person means a place of safety within the meaning of the Children and Young Persons Act, 1933;

“remand home” means premises established or used by the council of a county or county borough under section seventy-seven of the Children and Young Persons Act, 1933;

“responsible medical officer”, in relation to a person detained in a hospital or nursing home by virtue of this Part of this Act, means the medical practitioner in charge of the treatment of the patient.

(2) Any reference in this Part of this Act to an offence punishable on summary conviction with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.

(3) Subsection (2) of section fifty-eight of this Act shall apply for the purposes of this Part of this Act as it applies for the purposes of Part IV of this Act.

(4) References in this Part of this Act to a court of quarter sessions include references to an appeal committee of quarter sessions.

(5) References in this Part of this Act to persons serving a sentence of imprisonment shall be construed in accordance with subsection (6) of section seventy-one of this Act.

(6) Section ninety-nine of the Children and Young Persons Act, 1933 (which relates to the presumption and determination of age) shall apply for the purposes of this Part of this Act as it applies for the purposes of that Act.

A.D. 1959

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN
UNITED KINGDOM, ETC.*Removal to and from Scotland*Removal to
Scotland of
patients not
subject to
restriction.

80.—(1) If it appears to the Minister, in the case of a patient 5
who is for the time being liable to be detained or subject to
guardianship under this Act, being—

- (a) a patient who is so liable or subject by virtue of an
application under Part IV of this Act;
- (b) a patient who is so liable or subject by virtue of a 10
hospital order or transfer direction without an order
or direction restricting discharge;
- (c) a patient who is so liable or subject by virtue of a
guardianship order or a direction under section seventy-
eight of this Act, 15

that it is in the patient's interests to remove him to Scotland, and
that arrangements have been made for his reception into a mental
hospital, asylum or house in Scotland where persons of unsound
mind may be detained under the Lunacy (Scotland) Acts, 1857
to 1913, or for placing him in an institution for defectives or 20
under guardianship within the meaning of the Mental Deficiency
and Lunacy (Scotland) Act, 1913, the Minister may authorise
the removal of the patient to Scotland and give any necessary
directions for his conveyance to his destination

(2) Where a person removed in pursuance of an authority 25
under this section is received into any such hospital, asylum or
house as is mentioned in subsection (1) of this section, then—

- (a) if, immediately before his removal, he was liable to be
detained in a hospital within the meaning of Part IV
of this Act, he shall on his reception be treated for all 30
purposes as having been so received by virtue of an
order under section fourteen of the Lunacy (Scotland)
Act, 1862;
- (b) if, immediately before his removal, he was subject to
guardianship under this Act, he shall on his reception 35
be treated for all purposes as a person in whose case
an order under section thirteen of the Lunacy (Scot-
land) Act, 1866 is in force;

and for the purposes of paragraph (b) of subsection (1) of section
nine of the said Act of 1866 the person entitled to discharge a 40
patient transferred to Scotland under the foregoing provisions
of this section shall be ascertained as if the person at whose
instance he is detained were dead.

(3) Where a person removed in pursuance of an authority
under this section is placed in an institution for defectives or 45
under guardianship within the meaning of the Mental Deficiency
and Lunacy (Scotland) Act, 1913, then—

A.D. 1959
PART VI
—cont.

(a) if before the removal the patient was liable to be detained or subject to guardianship as mentioned in paragraph (a) of subsection (1) of this section, he shall on being so placed be treated for all purposes as having been so placed by his parent or guardian under section four of that Act;

(b) if before the removal the patient was liable to be detained or subject to guardianship as mentioned in paragraph (b) or paragraph (c) of the said subsection (1), he shall on being so placed be treated for all purposes as if he were detained in the institution or placed under guardianship in pursuance of a judicial order under section seven of the Mental Deficiency and Lunacy (Scotland) Act, 1913 made on the date on which he is so placed.

81.—(1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained by virtue of an order or direction under Part V of this Act, not being a patient to whom section eighty of this Act applies, that it is in the patient's interests to remove him to Scotland and that arrangements have been made for him in accordance with the following provisions of this section, the Secretary of State may by warrant authorise the removal of the patient to Scotland, and may give any necessary directions for his conveyance to his destination.

Removal to
Scotland of
patients
subject to
restriction on
discharge.

(2) In the case of a patient who is liable to be detained by virtue of a hospital order and an order restricting his discharge is in force, arrangements may be made for his reception into a State Mental Hospital within the meaning of the Criminal Justice (Scotland) Act, 1949, or a mental hospital, asylum or house where persons of unsound mind may be detained in pursuance of an order under section fourteen of the Lunacy (Scotland) Act, 1862, or for placing him in a State institution within the meaning of section twenty-eight of the Mental Deficiency and Lunacy (Scotland) Act, 1913.

(3) In the case of a patient who is liable to be detained by virtue of a transfer direction and a direction restricting his discharge is in force, arrangements may be made for his reception into a hospital eligible to receive patients under section six of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871, or under subsection (1) of section four of the Criminal Lunatics (Scotland) Act, 1935, or for placing him in an institution for defectives within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913.

A.D. 1959

PART VI

—cont.

(4) In the case of a patient who is liable to be detained in a hospital by virtue of a direction under section seventy of this Act, arrangements for his reception into a State Mental Hospital within the meaning of the Criminal Justice (Scotland) Act, 1949, or a mental hospital, asylum or house where persons of unsound mind may be detained in pursuance of an order under section fourteen of the Lunacy (Scotland) Act, 1862.

Application
of Scottish
enactments
to patients
removed
under s. 81.

82.—(1) Where a patient is removed to Scotland in pursuance of such arrangements as are mentioned in subsection (2) of section eighty-one of this Act, then—

- (a) if in pursuance of those arrangements he is received into a mental hospital, asylum or house where persons of unsound mind may be detained in pursuance of an order under section fourteen of the Lunacy (Scotland) Act, 1862, subsection (2) of section eighty of this Act shall apply to him as it applies to a patient removed under that section to such a hospital, asylum or house as aforesaid, but, unless the Secretary of State otherwise directs, any power to discharge the patient, to grant him leave of absence or to transfer him from the hospital, asylum or house shall, so long as the order restricting the discharge of the patient would have continued in force apart from his removal, be exercisable only with the consent of the Secretary of State ;
- (b) if in pursuance of those arrangements he is placed in a State institution, he shall be treated as if he were detained therein in pursuance of a judicial order under section seven of the Mental Deficiency and Lunacy (Scotland) Act, 1913, made on the date on which he is so placed ;

and for the purposes of paragraph (a) of this subsection any reference in section fourteen of the Lunacy (Scotland) Act, 1862, to a mental hospital shall be construed as including a reference to a State Mental Hospital.

(2) Where a patient is removed in pursuance of such arrangements as are mentioned in subsection (3) of the said section eighty-one, then—

- (a) if in pursuance of those arrangements he is received into a hospital being a State Mental Hospital, he shall be treated as if he had been ordered to be detained therein under subsection (1) of section four of the Criminal Lunatics (Scotland) Act, 1935 ;
- (b) if in pursuance of those arrangements he is detained in any other hospital described in that subsection, he shall be treated as if he had been ordered to be removed to that hospital under section six of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871 ;

A.D. 1959

PART VI

—cont.

(c) if in pursuance of those arrangements he is removed to an institution for defectives, he shall be treated as if he were detained under an order for his transfer to that institution made under section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913 on the date of his removal ;

and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before the transfer direction was given had been imposed or made by a court in Scotland.

(3) Where a patient is removed in pursuance of such arrangements as are mentioned in subsection (4) of the said section eighty-one, the patient shall be treated as if he had been ordered by a court in Scotland to be kept in strict custody until Her Majesty's pleasure shall be known in pursuance of section eighty-seven or section eighty-eight of the Lunacy (Scotland) Act, 1857, and as if an order for his safe custody in the place of reception had been made on behalf of Her Majesty under the said section eighty-seven or the said section eighty-eight.

83.—(1) In subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949 (which provides for the removal of state mental patients from mental hospitals in Scotland to mental hospitals in England and Wales) the reference to a mental hospital in England shall be construed as a reference to any hospital within the meaning of this Act.

Removal to
England and
Wales of state
mental
patients.

(2) Where, under the said subsection (2) an order is made by the Secretary of State for the removal of a state mental patient from a mental hospital in Scotland to a hospital in England and Wales, then—

(a) if the patient is a person ordered to be kept in safe custody during Her Majesty's pleasure in pursuance of section eighty-seven or section eighty-eight of the Lunacy (Scotland) Act, 1857, the patient shall, on his reception into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction of the Secretary of State under section seventy of this Act ;

(b) in any other case, the patient shall be treated, on his reception to the hospital in England and Wales, as if he had been removed to that hospital in pursuance of a transfer direction under Part V of this Act, and a direction restricting his discharge may be given under section seventy-three of this Act accordingly ;

and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before being removed under this section had been imposed or made by a court in England and Wales.

A.D. 1959

PART VI
—cont.Removal to
Northern
Ireland of
patients not
subject to
restriction.*Removal to and from Northern Ireland*

84.—(1) If it appears to the Minister, in the case of a patient who is for the time being liable to be detained or subject to guardianship as mentioned in subsection (1) of section eighty of this Act, that it is in the patient's interest to remove him to Northern Ireland and that arrangements have been made—

- (a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948 ; or
- (b) for his reception into an institution within the meaning of that Act or for placing him under the guardianship of the Northern Ireland Hospitals Authority ;

the Minister may authorise the removal of the patient to Northern Ireland and give any necessary directions for his conveyance to his destination.

(2) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into a mental hospital, he shall, on his reception, be treated for all purposes as having been so received in pursuance of a judicial order made under Part II of the Mental Health Act (Northern Ireland), 1948, on the date on which he is so received.

(3) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into an institution within the meaning of the said Act of 1948, or is placed under the guardianship of the Northern Ireland Hospitals Authority, he shall, on being so received or placed, be treated for all purposes as if he had been so received or placed in pursuance of a judicial order made under Part III of that Act on the date on which he is so received or placed.

Removal to
Northern
Ireland
of patients
subject to
restriction
on discharge.

85.—(1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained by virtue of an order or direction under Part V of this Act, not being a patient to whom section eighty-four of this Act applies, that it is in the patient's interests to remove him to Northern Ireland and that arrangements have been made—

- (a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948 ; or
- (b) for his reception into an institution within the meaning of that Act,

the Secretary of State may by warrant authorise the removal of the patient to Northern Ireland, and may give any necessary directions for his conveyance to his destination.

(2) Where a patient liable to be detained by virtue of a hospital order and subject to an order restricting his discharge is removed under this section, then—

A.D. 1959

PART VI

—cont.

5 (a) if in pursuance of the arrangements he is received into a mental hospital, he shall be treated as if he were subject to a judicial order made under Part II of the said Act of 1948 on the date of his reception and continued under section fourteen of that Act on any occasion on which it would otherwise have expired during the continuance of the order restricting his discharge ;

10 (b) if in pursuance of the arrangements he is received into an institution within the meaning of that Act, he shall be treated as if he were subject to a judicial order made under Part III of the said Act on the date of his reception and continued under section thirty-nine of that Act on any occasion on which it would otherwise have expired during the continuance of the order restricting his discharge, and section thirty-four of that Act (which provides for the revocation or variation of judicial orders) shall have effect accordingly ;

15 but in either case, unless the Ministry of Home Affairs for Northern Ireland otherwise directs, any power to discharge the patient, to grant him leave of absence or to transfer him from the hospital or institution shall, during the continuance of the order restricting the discharge of the patient, be exercisable only with the consent of that Ministry.

20 (3) Where a patient liable to be detained by virtue of a transfer direction and subject to a direction restricting his discharge is removed under this section, he shall, upon being received into such a hospital or institution as aforesaid in pursuance of the arrangements, be treated as if the sentence or order by virtue of which he was detained before the transfer direction was given had been imposed or made by a court in Northern Ireland, and as if—

25 (a) where the patient is received into such a mental hospital as aforesaid, he had been transferred to that hospital under section sixteen of the Prison Act (Northern Ireland) 1953 ;

30 (b) where he is received into such an institution as aforesaid, he had been transferred to that institution under section thirty-seven of the said Act of 1948.

(4) Where a patient who is liable to be detained by virtue of a direction under section seventy of this Act is removed under this section, he shall, on his reception into a mental hospital or

A.D. 1959
PART VI
—cont.

institution in pursuance of the arrangements, be treated as if he had been ordered by a court in Northern Ireland to be kept in safe custody during the pleasure of the Governor of Northern Ireland in pursuance of section seventeen of the Lunacy (Ireland) Act, 1821 or of section two of the Trial of Lunatics Act, 1883, as the case may be, and as if—

(a) where he is received into a mental hospital, an order had been made by or on behalf of the Governor of Northern Ireland for his safe custody in that hospital;

(b) where he is received into an institution within the meaning of the said Act of 1948, he had been transferred to that institution under section thirty-seven of that Act.

(5) References in this section to the continuance of the order restricting the discharge of a patient are references to the time for which that order would have continued in force apart from removal of the patient under this section.

Removal to
England and
Wales of
patients
other than
criminal
patients.

86.—(1) If it appears to the Ministry of Health and Local Government for Northern Ireland, in the case of a certified patient within the meaning of the Mental Health Act (Northern Ireland), 1948, or in the case of a person declared under Part III of that Act to be a person requiring special care, that it is in the patient's interests to remove him to England and Wales, and that arrangements have been made for his admission to a hospital or his reception into guardianship under Part IV of this Act, the Ministry may authorise his removal to England and Wales, and may give any necessary directions for his conveyance to his destination.

(2) Where a person removed under this section is received into a hospital in pursuance of such arrangements as aforesaid, Part IV of this Act shall apply to him as if he had been admitted to the hospital in pursuance of an application for admission for treatment, and had been so admitted on the date on which he is so received.

(3) Where a person so removed is received into guardianship in pursuance of such arrangements as aforesaid, the said Part IV shall apply to him as if he had been received into guardianship in pursuance of a guardianship application accepted on the date on which he is so received.

(4) A patient removed under this section shall be treated for the purposes of the said Part IV as suffering from such form of mental disorder as may be assigned in his case in pursuance of regulations made by the Minister by virtue of section ninety-three of this Act.

Removal to
England
and Wales
of criminal
patients.

87.—(1) If it appears to the Ministry of Home Affairs for Northern Ireland, in the case of a patient being a criminal lunatic within the meaning of the Lunacy (Ireland) Act, 1901,

A.D. 1959

PART VI

—cont.

or who would be a criminal lunatic within the meaning of that Act if any direction given by that Ministry for his removal to a mental hospital or institution within the meaning of the Mental Health Act (Northern Ireland), 1948, had been given by the Governor of Northern Ireland, that it is in the patient's interests to remove him to England and Wales, and that arrangements have been made for his admission to a hospital there, the Ministry may authorise his removal to England and Wales, and may give any necessary directions for his conveyance to his destination.

(2) Where a patient removed under this section is received into a hospital in pursuance of such arrangements as aforesaid, then—

(a) if the patient is a person ordered to be kept in custody under section seventeen of the Lunacy (Ireland) Act, 1821, or under section two of the Trial of Lunatics Act, 1883, he shall, on his removal into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction under section seventy of this Act;

(b) in any other case, the patient shall be treated, on his removal into hospital in England and Wales, as if he had been removed to that hospital in pursuance of a transfer direction under Part V of this Act, and as if a direction restricting his discharge had been given under section seventy-three of this Act;

and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before being removed under this section had been imposed or made by a court in England and Wales.

Other provisions as to removal

88.—(1) The Secretary of State may by warrant direct that any offender found by a court in any of the Channel Islands or in the Isle of Man to be insane or to have been insane at the time of the alleged offence, and ordered to be detained during Her Majesty's pleasure, be removed to a hospital in England and Wales.

Removal of certain patients from Channel Islands and Isle of Man to England and Wales.

(2) A patient removed under this section shall, on his removal into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction under section seventy of this Act.

(3) The Secretary of State may by warrant direct that any patient removed under this section from any of the Channel Islands or from the Isle of Man be returned to the Island from

A.D. 1959 ⁵ which he was so removed, there to be dealt with according to
 PART VI law in all respects as if he had not been removed under this
 —cont. section.

Removal of
 alien patients.

89.—(1) If it appears to the Secretary of State, in the case
 of any patient being an alien who is receiving treatment for
 mental illness as an in-patient in a hospital within the meaning
 of Part IV of this Act, that proper arrangements have been made
 for the removal of the patient to a country or territory outside
 the United Kingdom, the Isle of Man and the Channel Islands
 and for his care or treatment there, the Secretary of State may by
 warrant authorise the removal of the patient from the place
 where he is receiving treatment as aforesaid, and may give such
 directions as the Secretary of State thinks fit—

(a) for the conveyance of the patient to his destination in
 that country or territory ; and

(b) for his detention in any place or on board any ship or
 aircraft until his arrival at any specified port or place
 in any such country or territory.

(2) This section shall extend to Northern Ireland, and in
 its application to Northern Ireland shall have effect as if for
 the reference to a hospital within the meaning of Part IV of this
 Act there were substituted a reference to a mental hospital or
 institution within the meaning of the Mental Health Act
 (Northern Ireland), 1948.

Return of patients absent without leave

Persons absent
 from Scottish
 institutions.

90.—(1) Where a lunatic, defective, or state mental patient
 liable to detention under the Lunacy (Scotland) Acts, 1857 to
 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, the
 Criminal Lunatics (Scotland) Act, 1935, or the Criminal Justice
 (Scotland) Act, 1949, in an institution to which this section
 applies is absent from the institution without leave, he may, not
 later than the expiration of any period within which he might
 be retaken in Scotland under the said enactments, be retaken
 in England or Wales by a mental welfare officer, by any
 constable or by any person for the time being authorised by or
 by virtue of any such enactment to apprehend him without
 warrant and may be returned to that institution by any person
 so authorised.

(2) The institutions to which this section applies are mental
 hospitals, institutions for mental defectives and State Mental
 Hospitals within the meaning of the enactments specified in the
 foregoing subsection, and private asylums licensed thereunder.

Patients absent
 from Northern
 Irish
 institutions.

91.—(1) Subject to the provisions of this section, any person
 who, under section sixty-three of the Mental Health Act
 (Northern Ireland), 1948 (which provides for the retaking of
 patients absent without leave), is liable to be retaken in Northern
 Ireland may, within the period within which he might be so

retaken, be taken into custody in England or Wales by a mental welfare officer, by any constable or by any person for the time being authorised by or by virtue of that section to retake him, and may be returned by any person so authorised to any hospital,
 5 institution or place to which he could lawfully be returned if retaken under that enactment.

A.D. 1959

PART VI

—cont.

(2) This section shall not apply to any person who is liable to be retaken as aforesaid by reason only that he is for the time being under supervision or guardianship under the said Act of
 10 1948.

92.—(1) Any person who, under section forty of this Act, may be taken into custody and returned to a hospital within the meaning of Part IV of this Act, and any person who, under section sixty-three of this Act, may be taken into custody and taken
 15 back to a place of safety or conveyed to such a hospital, may be taken into custody in, and returned, taken back or conveyed as aforesaid from, any part of the United Kingdom, the Channel Islands or the Isle of Man.

Patients absent
 from
 hospitals
 in England
 and Wales.

(2) For the purposes of the enactments referred to in sub-
 20 section (1) of this section, in their application by virtue of this section to Scotland, Northern Ireland, the Channel Islands or the Isle of Man, the expression "constable" includes a Scottish constable, an officer or constable of the Royal Ulster Constabulary, a member of the police in Jersey, an officer of
 25 police within the meaning of section forty-three of the Larceny (Guernsey) Law, 1958, or any corresponding law for the time being in force, or a constable in the Isle of Man, as the case may be.

(3) For the purposes of the said enactments in their applica-
 30 tion by virtue of this section to Scotland or Northern Ireland, any reference to a mental welfare officer shall be construed as including a reference—

(a) in Scotland, to any person (other than a constable) who,
 35 under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, or the Criminal Lunatics (Scotland) Act, 1935, would have power to apprehend a person absent without leave from an institution to which section ninety of this Act applies;

(b) in Northern Ireland, to any person (other than a
 40 constable) who, under section sixty-three of the Mental Health Act (Northern Ireland) 1948, would be authorised to retake a patient absent without leave from a hospital to which that section applies.

A.D. 1959

PART VI

—cont.

Regulations
for purposes
of Part VI.General
provisions
as to patients
removed from
England
and Wales.

Supplemental

93. Section fifty-five of this Act shall have effect as if references therein to Part IV of this Act included references to this Part of this Act so far as it applies to patients removed to England and Wales thereunder.

94. Where a patient liable to be detained or subject to guardianship by virtue of an application, order or direction under Part IV or Part V of this Act is removed from England and Wales in pursuance of arrangements under this Part of this Act, the application, order or direction shall cease to have effect when he is duly received into a hospital or other institution, or placed under guardianship, in pursuance of those arrangements.

PART VII

STATE INSTITUTIONS

Provision of
institutions
for treatment
under
conditions
of special
security.

95.—(1) The Minister shall provide such institutions as appear to him to be necessary for persons subject to detention under this Act, being persons who, in the opinion of the Minister, require treatment under conditions of special security on account of their dangerous, violent or criminal propensities.

(2) The institutions vested in the Minister by subsection (3) of section sixty-two of the Criminal Justice Act, 1948, and by subsection (4) of section forty-nine of the National Health Service Act, 1946, shall be deemed to be institutions provided by the Minister under this section.

(3) Institutions provided, or deemed to be provided, by the Minister under this section are in this Act referred to as state institutions.

Administrative
provisions.

96.—(1) The state institutions shall be under the control and management of the Minister, and the provisions of Part II of the National Health Service Act, 1946, relating to the local administration of hospital and specialist services shall not apply to such institutions.

(2) Subsection (1) of section fifty-eight of the National Health Service Act, 1946 (which enables the Minister to acquire land for the purposes of that Act) shall have effect as if the reference to the purposes of that Act included a reference to the purposes of this Part of this Act and as if the reference to any hospital vested in the Minister included a reference to any state institution.

Transfers to
and from State
institutions.

97.—(1) Without prejudice to any other provisions of this Act with respect to the transfer of patients, any patient who is for the time being liable to be detained under this Act in a state institution may, upon the directions of the Minister, at any time be removed into any other such institution.

(2) Without prejudice to the said provisions of Part IV of this Act, the Minister may give directions for the transfer of any patient who is for the time being liable to be detained under this Act in a state institution into any other hospital within the meaning of the said Part IV.

(3) Paragraph (a) of subsection (2) of section forty-one of this Act shall apply in relation to a patient who is received or transferred in pursuance of directions under this section as it applies in relation to a patient transferred from one hospital to another in accordance with regulations made under that section; and subsection (4) of that section shall apply in relation to patients to be transferred under this section as it applies in relation to patients to be transferred under that section.

PART VIII

15 MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

98.—(1) The Lord Chancellor shall from time to time nominate one or more judges of the Supreme Court (hereinafter referred to as “nominated judges”) to act for the purposes of this Part of this Act.

A.D. 1959
PART VII
—cont.

(2) There shall continue to be an office of the Supreme Court, called the Court of Protection, for the protection and management, as provided by this Part of this Act, of the property of persons under disability; and there shall be a Master and a Deputy Master of the Court of Protection appointed by the Lord Chancellor.

(3) The Lord Chancellor may nominate other officers of the Court of Protection to act for the purposes of this Part of this Act.

(4) The functions expressed to be conferred by this Part of this Act on the judge shall be exercisable by the Lord Chancellor or by any nominated judge, and shall also be exercisable by the Master or Deputy Master of the Court of Protection or by any officer nominated under the foregoing subsection, but—

(a) in the case of the Master, Deputy Master or any such nominated officer, subject to any express provision to the contrary in this Part of this Act or any rules thereunder,

(b) in the case of the Deputy Master or any such nominated officer, subject to any directions of the Master,

(c) in the case of any such nominated officer, so far only as may be provided by the instrument by which he is nominated;

and references in this Part of this Act to the judge shall be construed accordingly.

A.D. 1959

PART VIII

—cont.

Persons in
relation to
whom judge's
functions
exercisable:
"the patient."

99. The functions of the judge under this Part of this Act shall be exercisable where, after considering medical evidence, he is satisfied that a person is incapable, by reason of mental disorder, of managing and administering his property and affairs; and a person as to whom the judge is so satisfied is in this Part of this Act referred to as a patient. 5

General
functions of
the judge with
respect to
property and
affairs of
patient.

100.—(1) The judge may, with respect to the property and affairs of a patient, do or secure the doing of all such things as appear necessary or expedient—

- (a) for the maintenance or other benefit of the patient, 10
- (b) for the maintenance or other benefit of members of the patient's family,
- (c) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not mentally disordered, or 15
- (d) otherwise for administering the patient's affairs.

(2) In the exercise of the powers conferred by this section regard shall be had first of all to the requirements of the patient, and the rules of law which restricted the enforcement by a creditor of rights against property under the control of the judge in lunacy shall apply to property under the control of the judge; but subject to the foregoing provisions of this subsection the judge shall, in administering a patient's affairs, have regard to the interests of creditors and also to the desirability of making provision for obligations of the patient notwithstanding that they may not be legally enforceable. 20 25

Particular
powers as to
patient's
property and
affairs.

101.—(1) Without prejudice to the generality of the foregoing section, the judge shall have power to make such orders and give such directions and authorities as he thinks fit for the purposes of that section, and in particular may for those purposes make orders or give directions or authorities for— 30

- (a) the control (with or without the transfer or vesting of property or the payment into or lodgment in court of money or securities) and management of any property of the patient; 35
- (b) the sale, exchange, charging or other disposition of or dealing with any property of the patient;
- (c) the acquisition of any property in the name or on behalf of the patient;
- (d) the settlement of any property of the patient, or the gift of any property of the patient to any such persons or for any such purposes as are mentioned in paragraphs (b) and (c) of subsection (1) of the foregoing section, so however that in such cases as a nominated judge may direct the powers conferred by this paragraph shall not be exercisable except by the Lord Chancellor or a nominated judge; 40 45

A.D. 1959
PART VIII
—cont.

- (e) the carrying on by a suitable person of any profession, trade or business of the patient ;
- (f) the dissolution of a partnership of which the patient is a member ;
- 5 (g) the carrying out of any contract entered into by the patient ;
- (h) the conduct of legal proceedings in the name of the patient or on his behalf, so however that an order, direction or authority to present a petition in the name or on behalf of the patient for divorce or nullity of marriage, for presumption of death and dissolution of marriage, or for judicial separation shall be made or given only by the Lord Chancellor or a nominated judge ;
- 10
- 15 (i) the reimbursement out of the property of the patient, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or members of his family or in making provision for other persons or purposes for whom or which he might be expected to provide if he were not mentally disordered ;
- 20
- 25 (j) the exercise of any power (including a power to consent) vested in the patient, whether beneficially, or as guardian or trustee, or otherwise, so however that the powers of a patient as patron of a benefice shall be exercisable by the Lord Chancellor only.

(2) If under the foregoing subsection provision is made for the settlement of any property of a patient, or the exercise of a power vested in a patient of appointing trustees or retiring from a trust, the judge may also make as respects the property settled or trust property such consequential vesting or other orders as the case may require, including (in the case of the exercise of such a power as aforesaid) any order which could have been made in such a case under Part IV of the Trustee Act, 1925.

30

35

(3) The power of the judge to provide for the settlement of the property of a patient shall not be exercisable at any time when the patient is an infant.

(4) Where under this section a settlement has been made of any property of a patient, and the Lord Chancellor or a nominated judge is satisfied, at any time before the death of the patient, that any material fact was not disclosed when the settlement was made, he may by order vary the settlement in such manner as he thinks fit, and give any consequential directions.

40

45 **102.** Where it is represented to the judge, and he has reason to believe, that a person may be incapable, by reason of mental disorder, of managing and administering his property and affairs, Judge's powers in cases of emergency.

A.D. 1959
PART VIII
—cont.

and the judge is of opinion that it is necessary to make immediate provision for any of the matters referred to in section one hundred of this Act, then pending the determination of the question whether the said person is incapable as aforesaid the judge may exercise in relation to the property and affairs of that person any of the powers conferred on him in relation to the property and affairs of a patient by this Part of this Act so far as is requisite for enabling that provision to be made. 5

Power to
appoint
receiver.

103.—(1) The judge may by order appoint as receiver for a patient a person specified in the order or the holder for the time being of an office so specified; and the receiver shall do all such things in relation to the property and affairs of the patient as the judge, in the exercise of the powers conferred on him by sections one hundred and one hundred and one of this Act, orders or directs him to do and may do any such thing in relation thereto as the judge, in the exercise of those powers, authorises him to do. 10 15

(2) A receiver appointed for any person shall be discharged by order of the judge on the judge being satisfied that that person has become capable of managing and administering his property and affairs, and may be discharged by order of the judge at any time if the judge considers it expedient to do so; and a receiver shall be discharged (without any order) on the death of the patient. 20

Vesting of
stock in
curator
appointed
outside
England and
Wales.

104.—(1) Where the judge is satisfied—

(a) that under the law prevailing in a place outside England and Wales a person has been appointed to exercise powers with respect to the property or affairs of any other person on the ground (however formulated) that that other person is incapable, by reason of mental disorder, of managing and administering his property and affairs, and 25 30

(b) that having regard to the nature of the appointment and to the circumstances of the case it is expedient that the judge should exercise his powers under this section,

the judge may direct any stock standing in the name of the said other person or the right to receive the dividends thereof to be transferred into the name of the person so appointed or otherwise dealt with as requested by that person, and may give such directions as the judge thinks fit for dealing with accrued dividends thereof. 35 40

(2) In this section “stock” includes shares and also any fund, annuity or security transferable in the books kept by any body corporate or unincorporated company or society, or by an instrument of transfer either alone or accompanied by other formalities, and “dividends” shall be construed accordingly. 45

A.D. 1959

PART VIII

—cont.

Preservation of
interests in
patient's
property.

105.—(1) Where any property of a person has been disposed of under this Part of this Act, and under his will or any codicil thereto or his intestacy, or by any gift perfected or nomination taking effect on his death, any other person would have taken an interest in the property but for the disposal, he shall take the like interest, if and so far as circumstances allow, in any property belonging to the estate of the deceased which represents the property disposed of; and if the property disposed of was real property any property representing it shall so long as it remains part of his estate be treated as if it were real property.

(2) The judge, in ordering, directing or authorising under this Part of this Act any disposal of property which apart from this section would result in the conversion of personal property into real property, may direct that the property representing the property disposed of shall, so long as it remains the property of the patient or forms part of his estate, be treated as if it were personal property.

(3) In the foregoing subsections references to the disposal of property are references to the sale, exchange, charging or other dealing with property other than money, the removal of property from one place to another, the application of money in acquiring property or the transfer of money from one account to another, and references to property representing property disposed of shall be construed accordingly and as including the result of successive disposals.

(4) The judge may give such directions as appear to him necessary or expedient for the purpose of facilitating the operation of subsection (1) of this section, including the carrying of money to a separate account and the transfer of property other than money.

(5) Where the judge has ordered, directed or authorised the expenditure of money for the carrying out of permanent improvements on, or otherwise for the permanent benefit of, any property of the patient, he may order that the whole or any part of the money expended or to be expended shall be a charge upon the property, whether without interest or with interest at a specified rate; and—

(a) a charge under this subsection may be made in favour of such person as may be just, and in particular, where the money charged is paid out of the patient's general estate, may be made in favour of a person as trustee for the patient;

(b) an order under this subsection may provide for excluding or restricting the operation of subsection (1) of this section:

Provided that a charge created under this subsection shall not confer any right of sale or foreclosure during the lifetime of the patient.

A.D. 1959

PART VIII

—cont.

Lord
Chancellor's
Visitors.

106.—(1) There shall continue to be Medical and Legal Visitors of patients, appointed by the Lord Chancellor, and the Visitors shall be known as the Lord Chancellor's Visitors.

(2) As respects appointments of Lord Chancellor's Visitors made after the commencement of this Act, the concurrence of the Treasury shall be required as to numbers. 5

(3) A person shall not be qualified to be appointed a Medical Visitor unless he is a medical practitioner who appears to the Lord Chancellor to have special knowledge and experience of cases of mental disorder. 10

(4) Subsection (3) of section one hundred and sixteen of the Supreme Court of Judicature (Consolidation) Act, 1925 (which precludes the appointment as deputy in any office of the Supreme Court of a person who is not qualified for appointment to that office) shall not prevent a person who has previously held an appointment as Medical Visitor or as Legal Visitor being appointed as deputy for a Medical Visitor or, as the case may be, a Legal Visitor. 15

(5) The Lord Chancellor may, with the concurrence of the Treasury as to numbers, appoint persons to be clerks and other officers of the Lord Chancellor's Visitors. 20

Functions of
Visitors.

107.—(1) It shall be the duty of the Lord Chancellor's Visitors to visit patients in accordance with the directions of the judge for the purpose of investigating matters relating to the capacity of any patient to manage and administer his property and affairs or otherwise relating to the exercise, in relation to him, of the functions of the judge under this Part of this Act; and the Visitors shall make such reports on their visits as the judge may direct. 25

(2) A Visitor making a visit under this section may interview the patient in private. 30

(3) A Medical Visitor making a visit under this section may carry out in private a medical examination of the patient and may require the production of and inspect any medical records relating to the patient.

(4) The Master or Deputy Master of the Court of Protection may visit any patient for the purpose mentioned in subsection (1) of this section, and subsection (2) thereof shall have effect accordingly. 35

(5) A report made by a Visitor under this section, and information contained in such a report, shall not be disclosed except to the judge and any person authorised by the judge to receive the disclosure. 40

(6) If any person discloses any report or information in contravention of the last foregoing subsection, he shall be guilty of an offence and 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 both. 45

(7) In this section references to patients include references to persons alleged to be incapable, by reason of mental disorder, of managing and administering their property and affairs.

A.D. 1959
PART VIII
—cont.

108.—(1) For the purposes of any proceedings before him with respect to persons suffering or alleged to be suffering from mental disorder, the judge shall have the like powers as are vested in the High Court in respect of securing the attendance of witnesses and the production of documents.

General
powers of
judge with
respect to
proceedings.

(2) Subject to the provisions of this section, any act or omission in the course of such proceedings as aforesaid which, if occurring in the course of proceedings in the High Court would have been a contempt of the Court, shall be punishable by the judge in any manner in which it could have been punished by the High Court.

(3) The foregoing subsection shall not authorise the Master or Deputy Master, or any other officer, of the Court of Protection to exercise any power of attachment or committal, but the Master, Deputy Master or officer may certify any such act or omission to the Lord Chancellor or a nominated judge, and the Lord Chancellor or judge may thereupon inquire into the alleged act or omission and take any such action in relation thereto as he could have taken if the proceedings had been before him.

(4) Subsections (1) to (4) of section forty-nine of the Supreme Court of Judicature (Consolidation) Act, 1925 (which provides a special procedure for the issue of writs of subpoena ad testificandum and duces tecum so as to be enforceable throughout the United Kingdom) shall apply in relation to proceedings under this Part of this Act with the substitution for references to the High Court of references to the judge and for references to such writs as aforesaid of references to such document as may be prescribed by rules under this Part of this Act for issue by the judge for securing the attendance of witnesses or the production of documents.

109.—(1) Subject to and in accordance with rules under this Part of this Act, an appeal shall lie to a nominated judge from any decision of the Master or Deputy Master of the Court of Protection or any officer of the Court of Protection nominated under subsection (3) of section ninety-eight of this Act.

Appeals.

(2) The Court of Appeal shall have the like jurisdiction as to appeals from any decision of the Lord Chancellor or from any decision of a nominated judge, whether given in the exercise of his original jurisdiction or on the hearing of an appeal under the foregoing subsection, as they had immediately before the coming into operation of this Part of this Act as to appeals from orders in lunacy made by the Lord Chancellor or any other person having jurisdiction in lunacy, and the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925 relating to appeals shall have effect accordingly.

A.D. 1959

PART VIII

—cont.

Rules of
procedure.

110.—(1) Proceedings before the judge with respect to persons suffering or alleged to be suffering from mental disorder (in this section referred to as “proceedings”) shall be conducted in accordance with the provisions of rules made under this Part of this Act.

(2) Rules under this Part of this Act may make provision as to the carrying out of preliminary or incidental inquiries, as to the persons by whom and manner in which proceedings may be instituted and carried on, as to the persons who are to be entitled to be notified of, to attend, or to take part in proceedings, as to the evidence which may be authorised or required to be given in proceedings and the manner (whether on oath or otherwise and whether orally or in writing) in which it is to be given, as to the administration of oaths and taking of affidavits for the purposes of proceedings, and as to the enforcement of orders made and directions given in proceedings.

(3) Without prejudice to the provisions of subsection (1) of section one hundred and eight of this Act, rules under this Part of this Act may make provision for authorising or requiring the attendance and examination of persons suffering or alleged to be suffering from mental disorder, the furnishing of information and the production of documents.

(4) Rules under this Part of this Act may make provision as to the termination of proceedings, whether on the death or recovery of the person to whom the proceedings relate or otherwise, and for the exercise, pending the termination of the proceedings, of powers exercisable under this Part of this Act in relation to the property or affairs of a patient.

(5) Rules under this Part of this Act made with the consent of the Treasury may make provision as to the scale of costs, fees and percentages payable in relation to proceedings, and as to the manner in which and funds out of which such costs, fees and percentages are to be paid, may contain provision for charging any percentage upon the estate of the person to whom the proceedings relate and for the payment of costs, fees and percentages within such time after the death of the person to whom the proceedings relate or the termination of the proceedings as may be provided by the rules, and may provide for the remission of fees and percentages.

(6) A charge upon the estate of a person created by virtue of the foregoing subsection shall not cause any interest of that person in any property to fail or determine or to be prevented from recommencing.

(7) Rules under this Part of this Act may authorise the making of orders for the payment of costs to or by persons attending, as well as persons taking part in, proceedings.

Security and
accounts.

111.—(1) Rules under this Part of this Act may make provision as to the giving of security by a receiver and as to the enforcement and discharge of the security.

(2) It shall be the duty of a receiver to render accounts in accordance with the requirements of rules under this Part of this Act, as well after his discharge as during his receivership; and rules under this Part of this Act may make provision for the rendering of accounts by persons, not being receivers, ordered, directed or authorised under this Part of this Act to carry out any transaction.

A.D. 1959
PART VIII
—cont.

112.—(1) Any power to make rules conferred by this Part of this Act shall be exercisable by the Lord Chancellor.

General
provisions as
to rules under
Part VIII.

(2) Rules under this Part of this Act may contain such incidental and supplemental provisions as appear requisite for the purposes of the rules.

113.—(1) The Master of the Court of Protection shall take in the presence of the Lord Chancellor the oath of allegiance and judicial oath; and the Promissory Oaths Act, 1868, shall have effect as if the officers named in the Second Part of the Schedule to that Act included the Master of the Court of Protection.

Supplementary
provisions as to
Court of
Protection.

(2) A person shall not be qualified for appointment as Deputy Master of the Court of Protection unless at the time of his appointment he is a barrister or solicitor of not less than five years' standing or is an officer of the Court of Protection who for not less than five years (whether continuously or not) has been an officer nominated under subsection (3) of section ninety-eight of this Act.

(3) The Lord Chancellor may, with the concurrence of the Treasury as to numbers, appoint persons to be clerks and other officers of the Court of Protection.

114.—(1) Section two hundred and four of the Law of Property Act, 1925 (by which orders of the High Court are made conclusive as against purchasers) shall apply in relation to orders made and directions and authorities given by the judge as it applies in relation to orders of the High Court.

Effect and
proof of
orders, etc.

(2) Office copies of orders made, directions or authorities given, or other instruments issued by the judge and sealed with the official seal of the Court of Protection shall be admissible in all legal proceedings as evidence of the originals without any further proof.

115.—(1) This Part of this Act shall apply in relation to the property and affairs in Scotland or Northern Ireland of a patient in relation to whom powers have been exercised under this Part of this Act, or a person as to whom powers are exercisable and have been exercised under section one hundred and two of this Act, as it applies in relation to his property and affairs in England and Wales unless a curator bonis, tutor, judicial factor, committee, receiver or guardian has been appointed for him in Scotland or, as the case may be, Northern Ireland.

Reciprocal
arrangements
in relation to
Scotland and
Northern
Ireland as to
exercise of
powers.

A.D. 1959
PART VIII
—cont.

(2) Where under the law in force in Scotland or Northern Ireland with respect to the property and affairs of persons suffering from mental disorder a curator bonis, tutor, judicial factor, committee, receiver or guardian has been appointed for any person, the provisions of that law shall apply in relation to that person's property and affairs in England and Wales unless he is a patient in relation to whom powers have been exercised under this Part of this Act, or a person as to whom powers are exercisable and have been exercised under section one hundred and two of this Act. 5 10

(3) In this section references to property do not include references to land or interests in land:

Provided that this subsection shall not prevent the receipt of rent or other income arising from land or interests in land.

Construction
of references
in other Acts
to judge or
authority
having
jurisdiction
under
Part VIII.

116.—(1) The functions expressed to be conferred by any enactment not contained in this Part of this Act on the judge having jurisdiction under this Part of this Act shall be exercisable by the Lord Chancellor or by a nominated judge. 15

(2) The functions expressed to be conferred by any such enactment on the authority having jurisdiction under this Part of this Act shall, subject to any express provision to the contrary, be exercisable by the Lord Chancellor, a nominated judge, the Master or Deputy Master of the Court of Protection or any officer nominated under subsection (3) of section ninety-eight of this Act: 20 25

Provided that the exercise of those functions by the Deputy Master or any such nominated officer shall be subject to any directions of the Master, and the said functions shall be exercisable by any such nominated officer so far only as may be provided by the instrument by which he is nominated. 30

(3) Subject to the provisions of the foregoing subsections,—

(a) references in any enactment not contained in this Part of this Act to the judge having jurisdiction under this Part of this Act shall be construed as references to the Lord Chancellor or a nominated judge, and 35

(b) references in any such enactment to the authority having jurisdiction under this Part of this Act shall be construed as references to the Lord Chancellor, a nominated judge, the Master or Deputy Master of the Court of Protection or any officer nominated under subsection (3) of section ninety-eight of this Act. 40

Interpretation
of Part VIII.

117.—(1) In this Part of the Act, unless the context otherwise requires,—

“nominated judge” means a judge nominated in pursuance of subsection (1) of section ninety-eight of this Act; 45

"patient" has the meaning assigned to it by section ninety-nine of this Act ;

"property" includes any thing in action, and any interest in real or personal property ;

5 "the judge" shall be construed in accordance with section ninety-eight of this Act.

(2) Any power conferred by this Part of this Act to make an order shall be construed as including a power, exercisable in like manner and subject to the like conditions if any, to revoke or
10 vary the order.

118. The provisions of the Lunacy Regulation (Ireland) Act, 1871, described in the Fourth Schedule to this Act (which relate to the management and protection of the property of mentally
15 have effect subject to the modifications specified in that Schedule.

A.D. 1959
PART VIII
—cont.

Modifications
of Lunacy
Regulation
(Ireland) Act,
1871.

119. The provisions of the Acts described in the Fifth
Schedule to this Act which are specified in the third column of
that Schedule, so far as they make special provision for persons
suffering from mental disorder, shall cease to have effect in
20 relation to patients and to persons as to whom powers are exercisable and have been exercised under section one hundred and two
of this Act.

Repeal of
certain
enactments in
relation to
patients and
alleged
patients.

PART IX

MISCELLANEOUS AND GENERAL

25 *Powers and proceedings of Mental Health Review Tribunals*

120.—(1) Where, under any provision of this Act, an applica-
tion 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
30 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.

Applications
to tribunals.

(2) Except in such cases and at such times as are expressly
provided by this Act, no application shall be made to a Mental
35 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.

40 121.—(1) Where application is made to a Mental Health
Review Tribunal by or in respect of a patient who is liable to
be detained or subject to guardianship under this Act, the
tribunal may, if satisfied—

Powers of
tribunals.

45 (a) that the patient is not then suffering from any such form
of mental disorder as would warrant his admission to a
hospital under section twenty-six or his reception into
guardianship under section thirty-three of this Act, as
the case may be ; or

A.D. 1959

PART IX

—cont.

(b) in the case of an application made under subsection (3) of section forty-four or subsection (4) 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 ; or

(c) in any other case, that it is not necessary in the interests of the patient or for the protection of other persons that the patient should continue to be liable to be detained or subject to guardianship, as the case may be,

direct that the patient be discharged.

(2) Where any such application is made 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.

(3) This section applies in relation to any reference to a Mental Health Review Tribunal made by the Minister under section fifty-six 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 (5) of section sixty-five of this Act.

Rules as to
procedure.

122.—(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 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 ;

(c) 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 ;

A.D. 1959

PART IX

—cont.

(d) for authorising the members of a tribunal, or any one or more of them, to visit and interview in private any patient in respect of whom an application or reference to the tribunal has been made ;

5 (e) 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 ;

10 (f) 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.

15 (3) 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.

(4) 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

20 **123.**—(1) Any person who, with intent to deceive, forges any of the following documents, that is to say :— Forgery, false statements, etc.

(a) any application under Part IV of this Act ;

25 (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,

30 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.

35 (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—

40 (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 or indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

45 (4) In this section “forge” has the same meaning as in the Forgery Act, 1913.

A.D. 1959

PART IX

—cont.

Ill-treatment
of patients.

124.—(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.

Amendment
of Sexual
Offences Act,
1956.

125.—(1) The Sexual Offences Act, 1956, shall be amended as follows :—

- (a) for section seven there shall be substituted the following section :—

“Intercourse
with defective.

7.—(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.

(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 :—

“Meaning of
‘defective’.

45. 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.

A.D. 1959
PART IX
—cont.

5 **126.**—(1) Without prejudice to section seven of the Sexual Offences Act, 1956, it shall be an offence, subject to the excep- Sexual intercourse with patients.
tion mentioned in this section,—

10 (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 inter-
course 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
15 on which the hospital or home forms part, with a woman who is for the time being receiving such treat-
ment there as an out-patient ;

20 (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 other-
wise 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
25 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.

30 (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
35 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.

40 **127.**—(1) Any person who induces a patient liable to be detained under this Act in a hospital—

(a) to absent himself from the hospital without leave granted under section thirty-nine of this Act ; or
45 (b) not to return to the hospital at the expiration of any time or period for which leave of absence was granted to him under that section, or upon being recalled there-
under ; or

Assisting patients to absent themselves without leave, etc.

A.D. 1959

PART IX

—cont.

(c) to escape from the custody of any person having his custody either during an absence for which leave has been so granted or while the patient is being conveyed to or from the hospital under any provision of this Act; or

(d) to absent himself without permission from any place where he is required to reside in accordance with conditions imposed on the grant of leave of absence granted under the said section thirty-nine,

or induces any patient to escape from any place of safety in which he is detained under any provision of this Act, or knowingly assists any patient to absent himself or escape as aforesaid, shall be guilty of an offence.

(2) Any person who induces or knowingly assists a patient subject to guardianship under this Act to absent himself without the permission of the guardian from the place at which he is required by the guardian to reside shall be guilty of an offence.

(3) Any person who, within the period within which a patient liable to be detained or subject to guardianship as aforesaid may be taken into custody under section forty or section sixty-three of this Act, knowingly harbours him or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody or returned shall be guilty of an offence.

(4) 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.

(5) In this section "hospital" includes a mental nursing home.

(6) This section, except subsection (2) and except subsection (3) so far as it relates to patients subject to guardianship, shall extend to Scotland and Northern Ireland.

Obstruction.

128.—(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.

A.D. 1959

PART IX

—cont.

Prosecutions
by local
authorities.

129.—(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 twenty-eight 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.

15 Miscellaneous provisions

130.—(1) *The Minister may pay to persons who are receiving treatment as in-patients (whether liable to be detained or not) in state institutions 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.* Provision of pocket money for in-patients in hospital.

(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) *This section shall apply to Scotland subject to the following modifications, that is to say—*

(a) *for references to the Minister there shall be substituted references to the Secretary of State;*

(b) *for the words from "State institutions" to "mental disorder" there shall be substituted the words "institutions to which section ninety 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."*

131.—(1) Section thirty-six of this Act shall, subject to the provisions of this section, 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, or is receiving care as a resident in premises provided by a local health authority, not being liable to be detained or subject to guardianship under this Act, as it applies in relation to patients detained in a hospital under Part IV of this Act. Correspondence of patients not subject to detention.

(2) In relation to any such patient who is for the time being resident in premises provided by a local health authority, the

A.D. 1959

PART IX
—cont.

said section thirty-six shall have effect as if for any reference to the managers of the hospital there were substituted a reference to the local health authority, and as if for any reference to the responsible medical officer there were substituted a reference to any person authorised by that authority to act for the purposes of the said section thirty-six. 5

(3) In relation to any other 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. 10

Warrant to
search for
and remove
patients.

132.—(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 mentally disordered patient 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, 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 the patient is believed to be, and, if thought fit, to remove the patient 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. 20

(2) A patient who is removed to a place of safety in the execution of a warrant issued under this section may be detained therein for a period not exceeding seventy-two hours. 25

(3) In the execution of a warrant issued under this section, the constable to whom it is addressed shall be accompanied by a mental welfare officer and by a medical practitioner. 30

(4) It shall not be necessary in any information or warrant under this section to name the patient concerned.

(5) 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. 35

Mentally
disordered
persons found
in public
places.

133.—(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. 40 45

(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.

A.D. 1959

PART IX

—cont.

134.—(1) The following provisions shall have effect in substitution for the provisions of the Lunacy (Vacating of Seats) Act, 1886.

Amendment
of provisions
as to members
of Parliament.

10 (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
15 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.

20 (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—

25 (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;

30 (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
35 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,
40 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
45 as aforesaid.

(5) If the second report is that the member is suffering from mental illness and authorised to be detained as aforesaid,

A.D. 1959 the Speaker shall forthwith lay both reports before the House
 PART IX of Commons, and thereupon the seat of the member shall become
 —cont. 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. 5

Supplemental

Provisions as to custody, conveyance and detention.

135.—(1) Any person required or authorised by or by virtue of this Act to be conveyed to any place shall, while being so conveyed, be deemed to be in legal custody. 10

(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. 15

(3) This section shall, so far as it relates to anything required or authorised to be done in Scotland or Northern Ireland, extend to Scotland and Northern Ireland. 20

Protection for acts done in pursuance of this Act.

136.—(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. 25

(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. 30 35

(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) Subsection (1) of this section, so far as it relates to any act purporting to be done in pursuance of any provision of this Act which extends to Scotland, shall extend to Scotland. 40

(5) This section, so far as it relates to any act purporting to be done in pursuance of any provision of this Act which extends to Northern Ireland, shall extend to Northern Ireland; and references to the High Court shall accordingly be construed, 45

in relation to Northern Ireland, as references to a judge of the High Court of Northern Ireland.

A.D. 1959

PART IX

—cont.

Default
powers of
Minister.

137.—(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.

10 (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.

15 138. 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
20 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.

Inquiries.

139.—(1) *There shall be defrayed out of moneys provided by* Expenses.
Parliament—

25 (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-four of this Act;*

30 (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-four of this Act shall be defrayed in such manner as may be provided by the Parliament of Northern Ireland.

40 140.—(1) Any power of the Minister or the Lord Chancellor General to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.

provisions as
to regulations,
orders and
rules.

(2) Any Order in Council under this Act and any statutory instrument containing regulations or rules made under this Act

A.D. 1959

PART IX
—cont.

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Warrants of
Secretary of
State.

141. 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.

5

Interpretation.

142.—(1) In this Act, unless the context otherwise requires, the following expressions have meanings hereby respectively assigned to them, that is to say:—

“direction restricting discharge” has the meaning assigned to it by section seventy-three of this Act;

10

“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 state institution;

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

20

“hospital order” and “guardianship order” have the meanings respectively assigned to them by section fifty-nine 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;

25

“the managers”, in relation to a hospital, 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;

30

“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;

35

“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;

40

“order restricting discharge” has the meaning assigned to it by section sixty-four of this Act;

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

45

"state institution" has the meaning assigned to it in Part VII of this Act;

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

A.D. 1959

PART IX

—cont.

5 (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.

10 (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.

15 (4) 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.

20 (5) Any reference in any provision of this Act to the commencement of this Act is a reference to the commencement of that provision.

25 **143.**—(1) The transitional provisions set out in the Sixth Transitional Schedule to this Act shall have effect for the purposes of the provisions. transition to the provisions of this Act from the law in force before the commencement of this Act.

30 (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—

35 (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

40 (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 special report from the medical practitioner responsible for the care or treatment of the patient, have determined that the patient is not a proper person to be discharged.

A.D. 1959

PART IX
—cont.Minor and
consequential
amendments
and repeals.

144.—(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. 5

(2) The enactments described in Part I of 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) Subsection (2) of this section, so far as it repeals the enactments described in Part II of the said Eighth Schedule shall extend to Scotland and (so far as those enactments extend thereto) to Northern Ireland. 10

(4) 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. 15

(5) 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.

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

145. 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 (other than Part VIII and the provisions of Part VI relating to aliens) as may be necessary for the purpose of bringing the said provisions into conformity with the provisions of that Act. 20 25

Short title,
commence-
ment and
extent.

146.—(1) This Act may be cited as the Mental Health Act, 1959. 30

(2) This Act shall come into operation on such date as the Minister may by order appoint, and different dates may be appointed by such an order for different purposes of this Act.

(3) Except so far as otherwise provided therein, this Act does not extend to Scotland or Northern Ireland. 35

(4) 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. 40

SCHEDULES

A.D. 1959

FIRST SCHEDULE

Section 3.

MENTAL HEALTH REVIEW TRIBUNALS

1. Each of the Mental Health Review Tribunals shall consist of—
 - 5 (a) a number of persons (hereinafter referred to as “the legal members”) appointed by the Lord Chancellor and having such legal experience as the Lord Chancellor considers suitable ;
 - 10 (b) a number of persons (hereinafter referred to as “the medical members”) being medical practitioners appointed by the Lord Chancellor after consultation with the Minister ; and
 - 15 (c) a number of persons appointed by the Lord Chancellor after consultation with the Minister and having such experience in administration or knowledge of social services as the Lord Chancellor considers suitable.
2. The members of Mental Health Review Tribunals shall hold and vacate office under the terms of the instrument under which they are appointed, but may resign office by notice in writing to the Lord Chancellor ; and any such member who ceases to hold office shall be
 20 eligible for re-appointment.
3. One of the legal members of each Mental Health Review Tribunal shall be appointed by the Lord Chancellor as chairman of the Tribunal.
4. Subject to rules made by the Lord Chancellor under paragraph
 25 (b) of subsection (2) of section one hundred and twenty-two of this Act, the members who are to constitute a Mental Health Review Tribunal for the purposes of any application or class or group of applications under this Act shall be appointed by the chairman of that Tribunal, and of the members so appointed—
 30 (a) one or more shall be appointed from the legal members ; and
 (b) one or more shall be appointed from the medical members.
5. A member of a Mental Health Review Tribunal for any area may be appointed under paragraph 4 of this Schedule as one of the persons to constitute a Mental Health Review Tribunal for any
 35 other area for the purposes of any application or class or group of applications ; and for the purposes of this Act, a person so appointed shall, in relation to that application or those applications, be deemed to be a member of that other Tribunal.
6. Where the chairman of the Tribunal is included among the
 40 persons appointed under paragraph 4 of this Schedule, he shall be president of the Tribunal ; and in any other case the president of the Tribunal shall be such one of the members so appointed (being one of the legal members) as the chairman may nominate.

SECOND SCHEDULE

45 SECTIONS SUBSTITUTED FOR EDUCATION ACT, 1944, s. 57

Section 11.

- 57.—(1) If it appears to the local education authority that any child in their area who has attained the age of two years is suffering from a disability of mind of such a nature or to such an extent as to make him unsuitable for education at school, it shall be the
- Medical examination and classification of children unsuitable for education.

A.D. 1959
2ND SCH.
—cont.

duty of that authority, by notice in writing served upon the parent of the child, to require the parent to submit him for examination by a medical officer of the authority.

(2) If a parent upon whom such a notice is served fails without reasonable excuse to comply with the requirements of the notice, he shall be liable on summary conviction to a fine not exceeding five pounds. 5

(3) Before any child is medically examined as aforesaid, the local education authority shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires. 10

(4) If, after considering the advice given with respect to any child by a medical officer in consequence of a medical examination under this section, and any reports or information which the local education authority are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, the authority decide that the child is suffering from such a disability of mind as aforesaid, they shall (subject to subsection (5) of this section) cause the decision to be recorded and furnish to the local health authority a report of the decision, together with a copy of any written advice, report or information which was taken into account for the purposes of the decision. 20

(5) Before recording a decision under this section with respect to any child, the local education authority shall give to the parent of the child not less than fourteen days' notice in writing of their intention to do so, and if within that period the parent refers to the Minister of Education the question whether such a decision should be recorded, the decision shall not be recorded except by direction of that Minister. 30

(6) Any notice under subsection (5) of this section shall contain a statement of the duty of the local health authority to make arrangements for the treatment, care or training of the child in the event of the decision being recorded, and, if known to the local education authority, a statement of the arrangements proposed to be made by the local health authority in the execution of that duty. 35

Review of
classification.

57A.—(1) Where a decision has been recorded under section fifty-seven of this Act in the case of a child—

(a) the parent of the child may, at any time (but not earlier than twelve months after the recording of the decision nor more often than once in any subsequent period of twelve months) by notice in writing request the local education authority to review the decision; and 40

(b) if at any time it appears to the local health authority, or to any authority or body responsible for the management of the institution in which the child is under care, that the decision ought to be reviewed, they shall give notice to that effect to the local education authority. 45

(2) Where any such notice is given to the local education authority, section fifty-seven of this Act shall apply as on its first appearing to the local education authority that the child was suffering from the disability, and if they decide, after considering the advice given 50

A.D. 1959

2ND SCH.

—cont.

by the medical officer and any reports or information available to them with respect to the child (including, in the case of a notice under paragraph (b) of subsection (1) of this section, any reports or information from the authority or body by whom the notice is given) that the child is no longer unsuitable to receive education at school, they shall cancel the original decision.

(3) Where a decision recorded under section fifty-seven of this Act is reviewed under this section, the local education authority shall serve on the parent of the child a notice stating whether they have decided that the child is still unsuitable to receive education at school; and where the notice states that the authority have so decided—

(a) the parent may, before the expiration of the period of fourteen days beginning with the day next following that on which the notice is served upon him, appeal to the Minister of Education against the decision of the authority; and

(b) if that Minister is of opinion that the authority ought to have decided that the child is no longer unsuitable to receive education at school, he may direct the authority to cancel the original decision recorded with respect to the child.

(4) Any notice under subsection (1) of this section shall be given to the local education authority who would be responsible for the education of the child if the decision were cancelled; and where a decision recorded in respect of a child by one local education authority is cancelled under this section by a different local education authority, the authority by whom the decision is cancelled shall give notice to that effect to the authority by whom the decision was recorded.

(5) This section applies to a decision in respect of which a report has been issued under section fifty-seven of this Act as originally enacted as it applies to a decision recorded under that section.

57B.—(1) If, after considering the advice given with respect to a child by a medical officer in consequence of a medical examination carried out under section thirty-four of this Act, the local education authority decide, not that the child requires special educational treatment, but that he is suffering from such a disability as is referred to in subsection (1) of section fifty-seven of this Act, the provisions of the said section fifty-seven shall apply as if the examination had been carried out and the decision made under that section.

(2) If, after considering the advice given with respect to a child by a medical officer in consequence of a medical examination carried out under section fifty-seven of this Act, or under the said section fifty-seven as applied by section fifty-seven A of this Act, and any such reports or information as are referred to in subsection (4) of the said section fifty-seven or subsection (2) of the said section fifty-seven A, the local education authority decide that the child is not suffering from such a disability as aforesaid, but that he requires special educational treatment, subsections (4) to (6) of the said section thirty-four shall apply as if the examination had been carried out and the decision made under that section.

A.D. 1959
Sections 62, 64,
65, 67, 70, 71,
73 and 78.

THIRD SCHEDULE

APPLICATION OF PART IV TO PATIENTS ADMITTED TO HOSPITAL OR PLACED UNDER GUARDIANSHIP UNDER PART V

Exceptions and modifications		
5 Section of Part IV and subject matter	Hospital order without restriction (s. 62) Transfer direction without restriction (ss. 71 & 72) Guardianship order or direction (ss. 62 & 78)	Hospital order with restriction or committal to hospital (ss. 64 & 67) Direction as to Queen's pleasure prisoner (s. 70) Transfer direction with restriction (s. 73)
S. 35 (Regulations as to guardianship).	None	Not applicable.
10 S. 36 (Correspondence of patients)	None	In subsection (2), at the end of paragraph (a), there shall be inserted the words "or the Secretary of State" and subsection (4) shall be omitted.
15 S. 37 (Visiting and examination of patients).	In subsection (1), the words "or of advising as to the exercise by the nearest relative of any such patient of any power to order his discharge" and the words "or by the nearest relative of the patient, as the case may be" shall be omitted.	Subsection (1) shall not apply.
20 S. 38 (Re-classification of patients)	In subsection (1), for references to an application for admission or a guardianship application there shall be substituted references to the order or direction under Part V of this Act by virtue of which the patient is liable to be detained or subject to guardianship.	The section shall not apply.

S. 39 (Leave of absence from hospital).

None

In subsection (1), after the word "may" there shall be inserted the words "with the consent of the Secretary of State".

5

In subsection (4), after the words "the responsible medical officer" and after the words "that officer" there shall in each case be inserted the words "or the Secretary of State".

10

In subsection (5), after the word "recalled", where that word first occurs, there shall be inserted the words "by the responsible medical officer"; and the words from "and any such patient" to the end of the subsection shall be omitted.

15

S. 40 (Return and re-admission of patients absent without leave).

None

Subsections (2) and (3), and in subsection (1), the words "within the period allowed by this section", shall be omitted.

20

S. 41 (Regulations as to transfer of patients).

In subsection (2), for the words from "as follows" to the end of the subsection there shall be substituted the words "as if the order or direction under Part V of this Act by virtue of which he was liable to be detained or subject to guardianship before being transferred were an order or direction for his admission or transfer to the hospital to which he is transferred, or placing him under the guardianship of the authority or person into whose guardianship he is transferred, as the case may be".

25

In subsection (1), after the word "may" in paragraph (a), there shall be inserted the words "with the consent of the Secretary of State", and the words from "or into" to the end of the subsection shall be omitted.

30

In subsection (2), for references in paragraph (a) to an application for admission there shall be substituted references to an order or direction under Part V of this Act, and paragraphs (b) to (d) shall be omitted.

A.D. 1959
3RD SCH.
—cont.

A.D. 1959
3RD SCH.
—*ont.*

	Exceptions and modifications	
Section of Part IV and subject matter	Hospital order without restriction (s. 62) Transfer direction without restriction (ss. 71 & 72) Guardianship order or direction (ss. 62 & 78)	Hospital order with restriction or committal to hospital (ss. 64 & 67) Direction as to Queen's pleasure prisoner (s. 70) Transfer direction with restriction (s. 73)
S. 42 (Transfer of guardianship in case of death, incapacity, etc. of guardian).	None	Not applicable.
S. 43 (Duration of Authority) ...	In subsection (1), for the words from "day on which" to "as the case may be" there shall be substituted the words "date of the relevant order or direction under Part V of this Act".	The section shall not apply.
S. 44 (Special provisions as to psychopathic and subnormal patients).	The section shall not apply.	The section shall not apply.
S. 45 (Special provisions as to patients absent without leave).	Subsection (3) shall be omitted.	The section shall not apply.
S. 46 (Special provisions as to patients sentenced to imprisonment, etc.).	For the words "application for admission for treatment or guardianship application" there shall be substituted the words "order or direction by virtue of which a patient is liable to detention or subject to guardianship."	The section shall not apply.

A.D. 1959
3RD SCH.
—cont.

S. 47 (Discharge of patients)	...	In subsection (2), paragraph (a) and the words "or by the nearest relative of the patient", in both places where those words occur, shall be omitted.	In subsection (1), references to guardianship shall be omitted, and after the word "made" there shall be inserted the words "with the consent of the Secretary of State and".
5 S. 48 (Restrictions on discharge by nearest relative).		The section shall not apply.	The section shall not apply.
10 S. 49 (Definition of relative and nearest relative).			
S. 50 (Children and Young Persons in care of local authority).		None	The sections shall not apply.
15 S. 51 (Nearest relative of infant under guardianship, etc.).			
S. 52 (Transfer of functions of nearest relative).			
20 S. 53 (Discharge, amendment and termination of orders for transfer of functions).		The sections shall not apply.	The sections shall not apply.
S. 54 (Procedure on applications to county court).		None	The section shall not apply.
S. 55 (Regulations for purposes of Part IV).		None	None

A.D. 1959
3RD SCH.
—cont.

Exceptions and modifications		
	Hospital order without restriction (s. 62) Transfer direction without restriction (ss. 71 & 72) Guardianship order or direction (ss. 62 & 78)	Hospital order with restriction or committal to hospital (ss. 64 & 67) Direction as to Queen's pleasure prisoner (s. 70) Transfer direction with restriction (s. 73)
5	S. 56 (Power of Minister to refer to Tribunal).	The section shall not apply.
	S. 57 (Special provisions as to wards of court).	The section shall not apply.
10	S. 58 (Interpretation of Part IV)	In subsection (1) the definition of "the nominated medical attendant", and subsections (3) and (4), shall be omitted.

FOURTH SCHEDULE

A.D. 1959

MODIFICATIONS OF PROVISIONS OF LUNACY REGULATION (IRELAND) Section 118.
ACT, 1871

1. In the definitions in section two of the Lunacy Regulation (Ireland) Act, 1871 (in this Schedule referred to as "the Act"), the expression "stock" shall be defined to include shares and also any fund, annuity or security transferable in the books kept by any body corporate or unincorporated company or society, or by an instrument of transfer, either alone or accompanied by other formalities, and the expression "dividend" shall be construed accordingly.

2. Section eighteen of the Act (which contains provisions requiring an inquiry under the Act to be before a jury where the alleged lunatic is not within the jurisdiction and provisions respecting notice to be given to such a lunatic) shall cease to have effect.

3. In section sixty-eight of the Act (which provides that where the property of a lunatic does not exceed two thousand pounds in value or the income thereof one hundred pounds per annum the application thereof for his benefit may be ordered without any inquiry under a commission of lunacy) for the words "two thousand pounds" there shall be substituted the words "ten thousand pounds": for the words "one hundred pounds" there shall be substituted the words "five hundred pounds": for the words "for the purpose of rendering the property of such person or the income thereof" there shall be substituted the words "for the purpose of protecting the property of such person or the income thereof or of rendering such property or income": and, after the words "trade or business" there shall be inserted the words "or for otherwise administering the affairs of such person."

4. For section ninety-one of the Act (which authorises the making of orders with respect to stock standing in Northern Ireland in the name of a lunatic residing outside Northern Ireland) there shall be substituted the following section:—

"91. Where the Lord Chief Justice of Northern Ireland is satisfied—

(a) that under the law prevailing in a place outside Northern Ireland a person has been appointed to exercise powers with respect to the property or affairs of any other person on the ground (however formulated) that that other person is incapable, by reason of a disorder or disability of mind, of managing and administering his property or affairs:

and

(b) that having regard to the nature of the appointment and to the circumstances of the case it is expedient that he should exercise his powers under this section:

he may direct any stock standing in the name of the said other person or the right to receive the dividends thereof to be transferred into the name of the person so appointed or otherwise dealt with as requested by that person, and may give such directions as the judge thinks fit for dealing with accrued dividends thereof."

5. In section ninety-six of the Act (which prescribes the extent of the powers and authorities given by the Act) for the words

A.D. 1959
4TH SCH.
—cont.

“(except England, Wales and Scotland)”, there shall be substituted the following words:—

“but shall not be exercisable in relation to any person—

- (a) in relation to whom powers have been exercised in England or Wales under any enactment there in force with respect to the management of property or affairs of mentally disordered persons: or
- (b) for whom a curator bonis, tutor, or judicial factor has been appointed in Scotland”.

Section 119.

FIFTH SCHEDULE

10

GENERAL ENACTMENTS CEASING TO HAVE EFFECT IN RELATION TO PATIENTS AND ALLEGED PATIENTS

Session and Chapter	Short Title	Enactments	
13 Geo. 3. c. 81.	The Inclosure Act, 1773.	Sections twenty-two and twenty-four.	15
17 Geo. 3. c. 53.	The Clergy Residences Repair Act, 1776.	Section fourteen.	
42 Geo. 3. c. 116.	The Land Tax Redemption Act, 1802.	Section fourteen.	20
55 Geo. 3. c. 128.	The Admiralty (Signal Stations) Act, 1815.	Section three.	
55 Geo. 3. c. 147.	The Glebe Exchange Act, 1815.	Sections twelve, thirteen and seventeen.	
57 Geo. 3. c. xxix.	The Metropolitan Paving Act, 1817.	Section eighty-one.	25
7 Geo. 4. c. 16.	The Chelsea and Kilmainham Hospitals Act, 1826.	Sections forty-four to forty-eight.	
7 Geo. 4. c. 66.	The Clergy Residence Act, 1826.	Sections one and three.	30
10 Geo. 4. c. 50.	The Crown Lands Act, 1829.	Sections forty and forty-one.	
2 & 3 Will. 4. c. 80.	The Ecclesiastical Corporations Act, 1832.	Section three.	35
1 & 2 Vict. c. 23.	The Parsonages Act, 1838.	Section twelve.	
1 & 2 Vict. c. 106.	The Pluralities Act, 1838.	Section one hundred and twenty-seven.	
2 & 3 Vict. c. 49.	The Church Building Act, 1839.	Section twenty.	40
4 & 5 Vict. c. 38.	The School Sites Act, 1841.	Section five.	
5 & 6 Vict. c. 26.	The Ecclesiastical Houses of Residence Act, 1842.	Section twelve.	
5 & 6 Vict. c. 27.	The Ecclesiastical Leases Act, 1842.	Section seven.	45
5 & 6 Vict. c. 94.	The Defence Act, 1842.	Sections ten and eighteen.	
5 & 6 Vict. c. 108.	The Ecclesiastical Leasing Act, 1842.	Section twenty-four.	50

Session and Chapter	Short Title	Enactments	A.D. 1959 5TH SCH. —cont.
8 & 9 Vict. c. 16.	The Companies Clauses Consolidation Act, 1845.	Section seventy-nine.	
5 8 & 9 Vict. c. 18.	The Lands Clauses Consolidation Act, 1845.	Sections seven, eight, nine, and sixty-nine to seventy-two.	
8 & 9 Vict. c. 56.	The Land Drainage Act, 1845.	Section three.	
10 8 & 9 Vict. c. 118.	The Inclosure Act, 1845.	Sections twenty, one hundred and thirty-three, one hundred and thirty-four and one hundred and thirty-seven.	
9 & 10 Vict. c. 73.	The Tithe Act, 1846.	Sections five, nine and ten.	
15 17 & 18 Vict. c. 112.	The Literary and Scientific Institutions Act, 1854.	Section five.	
23 & 24 Vict. c. 112.	The Defence Act, 1860.	Section eleven.	
20 25 & 26 Vict. c. 53.	The Land Registry Act, 1862.	Section one hundred and sixteen.	
27 & 28 Vict. c. 114.	The Improvement of Land Act, 1864.	Section twenty-four.	
29 & 30 Vict. c. 122.	The Metropolitan Commons Act, 1866.	Section twenty-eight.	
25 31 & 32 Vict. c. 109.	The Compulsory Church Rate Abolition Act, 1868.	Section seven.	
36 & 37 Vict. c. 50.	The Places of Worship Sites Act, 1873.	Sections one and three.	
30 40 & 41 Vict. c. 59.	The Colonial Stock Act, 1877.	Section six.	
56 & 57 Vict. c. 39.	The Industrial and Provident Societies Act, 1893.	Sections twenty-nine and thirty.	
35 57 & 58 Vict. c. 46.	The Copyholds Act, 1894.	Section forty-five.	
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	In section fifty-five, subsection (1).	
40 3 & 4 Geo. 5. c. 32.	The Ancient Monuments Consolidation and Amendment Act, 1913.	In section five, subsection (2).	
13 & 14 Geo. 5. c. 16.	The Salmon and Fresh Water Fisheries Act, 1923.	In section fifty, subsection (2).	
45			

SIXTH SCHEDULE

Section 143

TRANSITIONAL PROVISIONS

PART I

PROVISIONS RELATING TO PART II

- 50 1. Without prejudice to the power of the Minister to give directions under subsection (1) of section twenty-eight of the National Health Service Act, 1946, requiring a local health authority to make arrangements for the exercise of any of their functions under that section, it

A.D. 1959
6TH SCH.
—cont.

shall be the duty of every such authority to make arrangements under that section for the provision of services corresponding (subject to any necessary modifications) with the services which, under any enactment repealed by this Act, were required to be provided by that authority for or for the benefit of persons of unsound mind or mental defectives ; and section twenty of that Act (which provides for the submission and approval of proposals for the exercise of the duties of local health authorities under the said section twenty-eight and other sections of Part III of that Act) and any proposals approved before the commencement of section six of this Act under the said section twenty as applied by Part V of the said Act of 1946, shall have effect accordingly. 5 10

PART II

PROVISIONS RELATING TO PART III

2. For the purposes of the provisions of Part III of this Act— 15

- (a) any person who, immediately before the date of the commencement of this Act, was the holder of a licence granted and in force under Part VIII of the Lunacy Act, 1890, in respect of a licensed house ;
- (b) the management committee of a hospital which, immediately before that date, was registered under the said Part VIII ; and 20
- (c) any person who, immediately before that date, was carrying on a nursing home for the time being approved for the purposes of section one or section five of the Mental Treatment Act, 1930, 25

shall be treated as if he or they were registered in respect of the house, hospital or home as a mental nursing home and (except in the case of a nursing home approved for the purposes of section one but not section five of the Mental Treatment Act, 1930) were so registered in the separate part of the register referred to in subsection (1) of section fifteen of this Act. 30

3. During the period of six months beginning with the commencement of this Act—

- (a) the managers of any institution in respect of which a certificate under section thirty-six of the Mental Deficiency Act, 1913, was in force immediately before the date of the commencement of this Act ; 35
- (b) any person who, immediately before that date, had the custody at any place of a patient under section fifty-seven of the Lunacy Act, 1890 ; and 40
- (c) any person who, immediately before that date, had the charge of a certified or temporary patient as a single patient under the Lunacy and Mental Treatment Acts, 1890 to 1930, in any place not being a licensed house or nursing home to which paragraph 2 of this Schedule applies. 45

shall be treated for the purposes of the said provisions as if they or he were registered in respect of that institution or place as a mental nursing home and were so registered in the separate part of the register referred to in subsection one of section fifteen of this Act.

4. During the period of six months beginning with the commencement of this Act—

A.D. 1959

6TH SCH.

—cont.

- 5 (a) the managers of any premises, or the person approved under the Mental Deficiency Act, 1913, in respect of any house which, immediately before the date of the commencement of this Act, were or was an approved home within the meaning of section fifty of that Act;
- 10 (b) any person who, immediately before that date, had the care and control in any place of any defectives with the consent of the Board of Control under subsection (1) of section fifty-one of that Act;
- 15 (c) any person who, immediately before that date, had the care and control in any place (not being a place to which paragraph 3 (c) of this Schedule applies) of any voluntary patient received as a single patient under section one of the Mental Treatment Act, 1930; and
- 20 (d) any person who, immediately before that date, was registered or exempted from registration under Part VI of the Public Health Act, 1936, or under Part XI of the Public Health (London) Act, 1936, in respect of a nursing home which, if this Act had been in force, would have been a mental nursing home within the meaning of Part III of this Act (not being a place to which paragraph 3 (c) of this Schedule applies),
- 25 shall be treated for the purposes of the provisions of the said Part III as if they or he were registered in respect of that home or place and, in the case of a home or place being a mental nursing home within the meaning of the said Part III, were so registered otherwise than in the separate part of the register referred to in
- 30 subsection (1) of section fifteen of this Act.

5. Where, by virtue of this Schedule any person is treated for the purposes of the provisions of Part III of this Act as if he were registered in respect of any premises, institution, home or place, the said Part III shall apply as if the number of patients specified in

35 the certificate of registration in pursuance of subsection (2) of section fifteen of this Act were the number permitted to be kept there immediately before the commencement of this Act, including any single patients who were then kept in the premises, institution, home or place.

PART III

PROVISIONS RELATING TO PARTS IV AND V

Patients other than transferred patients and short-period patients

6.—(1) This paragraph applies to patients who immediately before the commencement of this Act were patients of any of the following

45 classes, that is to say—

- 50 (a) patients liable to be detained in a hospital or other place, or as single patients, in pursuance of a reception order under section six or section twelve of the Lunacy Act, 1890, or a summary reception order under section sixteen of that Act or an order having the like effect as a summary reception order (including patients who were treated by virtue

A.D. 1959

6TH SCH.

—cont.

of any enactment as liable to be so detained or in whose case a summary reception order was so treated as having been made);

(b) temporary patients liable to be so detained under section five of the Mental Treatment Act, 1930 ;

(c) patients liable to be so detained or subject to guardianship by virtue of section three, section six, subsection (1) of section eight, section sixteen or subsection (3) of section sixty-seven of the Mental Deficiency Act, 1913, or, being patients whose sentence or other period of detention ordered by the court had expired before the commencement of this Act, by virtue of section nine of that Act.

(2) A patient to whom this paragraph applies shall, notwithstanding the repeal or exclusion by this Act of any enactment by virtue of which he was, or was treated as, liable to be so detained or subject to guardianship, continue to be liable to be detained in any hospital or other place in which he might have been detained immediately before the commencement of this Act or, as the case may be, subject to guardianship until the expiration of the period of six months beginning with the commencement of this Act (in this Part of this Schedule referred to as the initial period).

(3) During the initial period the responsible medical officer shall record with respect to each such patient as aforesaid for whose treatment he is responsible his opinion whether the patient is suffering from mental illness, severe subnormality, psychopathic disorder, or subnormality and whether his mental disorder is of a nature or degree which renders him suitable to be detained in a hospital for treatment or to be kept under guardianship.

7.—(1) In relation to any patient who by virtue of the last foregoing paragraph is liable to be detained in a hospital or subject to guardianship during the initial period, Part IV of this Act shall, subject to the exceptions and modifications specified in the following provisions of this paragraph, apply during that period as if he had been admitted to the hospital in pursuance of an application for admission for treatment under the said Part IV or had been received into guardianship in pursuance of a guardianship application thereunder, and the other provisions of this Act shall apply in relation to him accordingly.

(2) Section thirty-eight of this Act shall not apply in relation to the patient until the form or forms of mental disorder from which, in the opinion of the responsible medical officer, the patient is suffering have been recorded under the last foregoing paragraph and, on that being done, Part IV of this Act shall have effect as if the application had specified as the form or forms of mental disorder from which he is suffering the form or forms so recorded.

(3) If the patient is also a patient to whom paragraph 20 of this Schedule applies, sections thirty-nine and forty of this Act shall apply in relation to him subject to the modifications mentioned in that paragraph, and if he is not, but no form or forms of mental disorder have been recorded in his case under the last foregoing paragraph, the said section forty shall apply in relation to him as if for paragraphs

(a) and (b) of subsection (3) of that section there were substituted the following sub-paragraphs:

A.D. 1959

6TH SCH.

—cont.

“(a) in the case of a patient mentioned in sub-paragraph (1) (c) of paragraph 6 of the Sixth Schedule to this Act, six months ;

5

(b) in the case of any other patient to whom that paragraph applies, twenty-eight days.”

(4) Sections forty-three to forty-five of this Act shall not apply in relation to the patient except in so far as provisions of the said section forty-three are applied by the following provisions of this Part of this Schedule.

(5) If the patient was immediately before the commencement of this Act liable to be detained by virtue of section six, subsection (1) of section eight or section nine of the Mental Deficiency Act, 1913, the power of discharging him under section forty-seven of this Act shall not be exercisable by the nearest relative.

(6) In its application to a patient who was immediately before the commencement of this Act in the custody of a relative or friend under section fifty-seven of the Lunacy Act, 1890, Part IV of this Act shall have effect as if—

(a) for references (except in section forty-seven of this Act) to the managers of the hospital in which the patient is detained there were substituted references to the person having the custody of the patient ; and

(b) for references to those managers in the said section forty-seven there were substituted references to the managers of the hospital from which he was transferred to the custody of the relative or friend.

(7) In its application to any such patient who was immediately before the commencement of this Act liable to be detained as a single patient under the Lunacy and Mental Treatment Acts, 1890 to 1930, Part IV of this Act shall have effect as if,—

(a) for references (except in section forty-seven of this Act) to the managers of the hospital in which the patient was detained there were substituted references to the person having charge of the patient ; and

(b) the references in the said section forty-seven to those managers were omitted.

8.—(1) A patient to whom paragraph 6 of this Schedule applies shall unless previously discharged continue to be liable to be detained in a hospital or, as the case may be, subject to guardianship after the expiration of the initial period if—

(a) he satisfies the conditions specified in sub-paragraph (2) or sub-paragraph (3) of this paragraph ; and

(b) the authority for his detention or guardianship is renewed under the following provisions of this Part of this Schedule before the expiration of the initial period or his current period of treatment would expire after the expiration of the initial period.

A.D. 1959

6TH SCH.

—cont.

(2) Any such patient shall be so liable or subject if it is recorded under the said paragraph 6 that in the opinion of the responsible medical officer he is suffering from mental illness or severe subnormality and his mental disorder is of a nature or degree which renders him suitable to be detained in a hospital for treatment or, as the case may be, to be kept under guardianship. 5

(3) Any such patient shall be so liable or subject if it is so recorded that in the opinion of the responsible medical officer he is suffering from subnormality or psychopathic disorder, but not from mental illness or severe subnormality, and his mental disorder is of such a nature or degree as aforesaid and either— 10

(a) he was immediately before the commencement of this Act liable to be detained or subject to guardianship in pursuance of an order under subsection (1) of section eight or section nine of the Mental Deficiency Act, 1913, or by virtue of an order made, or having effect as if made, under section thirty of the Magistrates' Courts Act, 1952 ; or 15

(b) he had not attained the age of twenty-one years when he was first detained or placed under guardianship and will not attain the age of twenty-five years before the expiration of the initial period ; or 20

(c) in the case of any other patient liable to be detained in a hospital, the responsible medical officer before the expiration of the initial period records his opinion under the following provisions of this Part of this Schedule that the patient is unfit for discharge. 25

9.—(1) The period for which a patient may by virtue of the last foregoing paragraph be detained or kept under guardianship after the expiration of the initial period, without renewal of the authority for his detention or guardianship, shall be the remainder of his current period of treatment. 30

(2) Where the current period of treatment of a patient who may be detained or kept as aforesaid would continue after the expiration of the period of three years beginning with the commencement of this Act, the patient may at any time within the period of twenty-eight days immediately following the expiration of the said period of three years apply to a Mental Health Review Tribunal. 35

10.—(1) Authority for the detention or guardianship of a patient to whom paragraph 6 of this Schedule applies may on the expiration of the relevant period, unless the patient has previously been discharged, be renewed for whichever of the following periods is applicable, that is to say— 40

(a) where the period for which he has, at the expiration of the relevant period, already been detained or subject to guardianship on account of any description of mental disorder (whether before or after the appointed day) is not more than one year, a further period of one year ; 45

(b) where the period for which he has already been so detained or subject is more than one year but not more than two years, a further period of two years ;

(c) in any other case, a further period of three years. 50

A.D. 1959
6TH SCH.
—cont.

(2) Subsections (3) to (5) of section forty-three of this Act shall apply in relation to the renewal of authority for the detention or guardianship of a patient under this paragraph as they apply in relation to the renewal of authority for the detention or guardianship of the patient under subsection (2) of that section.

(3) In this paragraph "the relevant period" means, in relation to a patient, the patient's current period of treatment or, if that period expires during the initial period, the initial period or any period subsequent to the said periods for which authority for the detention or guardianship of the patient has previously been renewed under this paragraph.

11.—(1) In relation to any patient who by virtue of paragraph 8 of this Schedule is liable to be detained in a hospital or subject to guardianship after the expiration of the initial period, Part IV of this Act shall, subject to the exceptions and modifications specified in the following provisions of this paragraph, apply as if he had been admitted to the hospital in pursuance of an application for admission for treatment under the said Part IV or had been received into guardianship in pursuance of a guardianship application thereunder and had been so admitted or received as a patient suffering from the form or forms of mental disorder recorded under paragraph 6 of this Schedule or, if a different form or forms have been specified in a report under section thirty-eight of this Act as applied by that paragraph, the form or forms so specified, and the other provisions of this Act shall apply to him accordingly.

(2) Section forty-three of this Act shall not apply in relation to the patient, but the provisions of paragraph 10 of this Schedule shall apply instead.

(3) Section forty-four of this Act shall not apply in relation to any such patient as is mentioned in sub-paragraph (3) of paragraph 8 of this Schedule, but any such patient as is mentioned in paragraph (b) of that sub-paragraph shall cease to be liable to be detained on attaining the age of twenty-five years unless, during the period of two months ending on the date when he attains that age, the responsible medical officer records his opinion under the following provisions of this Part of this Schedule that the patient is unfit for discharge.

(4) If the patient was immediately before the commencement of this Act liable to be detained by virtue of section six, subsection (1) of section eight or section nine of the Mental Deficiency Act, 1913, the power of discharging him under section forty-seven of this Act shall not be exercisable by his nearest relative, but his nearest relative may make an application in respect of him to a Mental Health Review Tribunal, during the period of twelve months beginning with the expiration of the initial period and in any subsequent period of twelve months.

12.—(1) The responsible medical officer may record for the purposes of paragraph (c) of sub-paragraph (3) of paragraph 8 of this Part of this Schedule or sub-paragraph (3) of paragraph 11 thereof his opinion that a patient detained in a hospital is unfit for discharge if it appears to the responsible medical officer,—

(a) that if that patient were released from the hospital he would be likely to act in a manner dangerous to other persons or

A.D. 1959

6TH SCH.

—cont.

to himself, or would be liable to be exposed to danger or serious exploitation by other persons, or would be likely to resort to criminal activities ; or

- (b) that that patient is incapable of caring for himself and that there is no suitable hospital or other establishment into which he can be admitted and where he would be likely to remain voluntarily ;

and where the responsible medical officer records his opinion as aforesaid he shall also record the grounds for his opinion.

(2) Where the responsible medical officer records his opinion under this paragraph in respect of a patient, the managers of the hospital or other persons in charge of the establishment where he is for the time being detained or liable to be detained shall cause the patient to be informed, and the patient may, at any time before the expiration of the period of twenty-eight days beginning with the date on which he is so informed, apply to a Mental Health Review Tribunal.

(3) On any application under the last foregoing sub-paragraph the Tribunal may, if satisfied that the conditions set out in paragraph (a) or paragraph (b) of sub-paragraph (1) of this paragraph are not fulfilled, direct that the patient be discharged.

13. Any person who immediately before the commencement of this Act was the guardian of any such patient as is mentioned in sub-paragraph (1) (c) of paragraph 6 of this Schedule shall be deemed for the purposes of this Act to have been named as the guardian of the patient in an application for his reception into guardianship under Part IV of this Act accepted on that person's behalf by the relevant local authority.

Transferred patients

14.—(1) This paragraph applies to patients who immediately before the commencement of this Act were liable to be detained in a hospital or other place as Broadmoor patients or, not being Broadmoor patients, as patients of any of the following classes, that is to say—

- (a) patients liable to be detained by virtue of section nine of the Mental Deficiency Act, 1913, not being patients whose sentence or other period of detention ordered by the court had expired before the commencement of this Act ;
- (b) patients liable to be detained by virtue of subsection (4) of section eight of the said Act of 1913 ;
- (c) patients liable to be detained by virtue of subsection (3) of section sixty-three or subsection (3) of section sixty-four of the Criminal Justice Act, 1948, or subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949 ; or
- (d) patients liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884 ;

and any patient to whom this paragraph applies is in this Part of this Schedule referred to as a transferred patient.

A.D. 1959
6TH SCH.
—cont.

(2) A transferred patient who was liable to be detained as being or having been required to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known (including a patient of that or a similar description liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884, but not including a patient transferred to England and Wales from Scotland, the Channel Islands or the Isle of Man) shall be treated for the purposes of this Act as if he were liable to be detained in a hospital in pursuance of a direction under section seventy of this Act.

(3) A transferred patient who immediately before the commencement of this Act was serving a sentence of imprisonment within the meaning of section seventy-one of this Act (including a patient liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884, who does not fall within the last foregoing paragraph) shall be treated for the purposes of this Act as if he were liable to be detained in a hospital by virtue of a transfer direction under the said section seventy-one and as if a direction restricting his discharge had been given under section seventy-three of this Act.

(4) Section eighty-three of this Act shall apply to a transferred patient who having been a State mental patient in Scotland was immediately before the commencement of this Act liable to be detained in a hospital in England and Wales by virtue of subsection (3) of section sixty-three of the Criminal Justice Act, 1948, or subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1948, as if he had been removed after the commencement of this Act to such a hospital from Scotland in pursuance of an order under the said subsection (2); and where he is treated by virtue of the said section eighty-three as if he had been removed to a hospital in pursuance of a transfer direction, he shall also be treated as if a direction restricting his discharge had been given as aforesaid.

(5) Section eighty-eight of this Act shall apply to a transferred patient who having been ordered by a court in any of the Channel Islands or in the Isle of Man to be detained during Her Majesty's pleasure was removed to, and was immediately before the commencement of this Act liable to be detained in, a hospital in England and Wales as if he had been removed to such a hospital under that section after the commencement of this Act.

(6) Any person to whom this paragraph applies and who does not fall within any of the four last foregoing sub-paragraphs shall be treated for the purposes of this Act as if he were liable to be detained in a hospital in pursuance of a transfer direction given under section seventy-two of this Act and as if a direction restricting his discharge had been given under section seventy-three of this Act, and he shall be so treated notwithstanding that he is not suffering from a form of mental disorder mentioned in the said section seventy-two.

15.—(1) References in the last foregoing paragraph to a patient who immediately before the appointed day was liable to be detained as a Broadmoor patient include references to a Broadmoor patient conditionally discharged by the Secretary of State before the commencement of this Act under section five of the Criminal Lunatics Act, 1884, and—

(a) any such patient shall be treated as if he had been conditionally discharged by the Secretary of State under section sixty-five of this Act; and

A.D. 1959

6TH SCH.

—cont.

(b) any direction given before the commencement of this Act under the said section five to take any such patient into custody and convey him to a hospital shall be deemed to have been given under the said section sixty-five.

(2) Sections thirty-nine and forty of this Act, in their application to a transferred patient, who is also a patient to whom paragraph 20 of this Schedule applies shall have effect subject to the modifications mentioned in that paragraph.

16. Upon a direction restricting the discharge of a transferred patient ceasing to have effect, the responsible medical officer shall record his opinion whether the patient is suffering from mental illness, severe subnormality, psychopathic disorder or subnormality.

Short-period patients

17. A person who immediately before the commencement of this Act was detained under section eleven of the Lunacy Act, 1890 may continue to be detained until the expiration of the period of seven days mentioned in that section or, if at the commencement of this Act that period had expired and a petition for a reception order was pending, until the expiration of the period of twenty-eight days beginning with the commencement of this Act or until he becomes liable to be detained or subject to guardianship under this Act, whichever occurs first, and may be so detained in any place in which he might have been detained but for the repeal of that section.

18. A person who immediately before the commencement of this Act was detained by virtue of section twenty, section twenty-one or section twenty-one A of the Lunacy Act, 1890, may continue to be detained until the expiration of his current period of treatment or until he becomes liable to be detained or subject to guardianship under this Act, whichever occurs first, and may be so detained in any place in which he might have been detained but for the repeal of that section.

19. A person who immediately before the commencement of this Act—

(a) was detained by virtue of subsection (3) of section eight of the Mental Deficiency Act, 1913 in an institution or place of safety within the meaning of that Act ; or

(b) was detained under section fifteen of that Act in such a place of safety ;

may continue to be detained as aforesaid until the expiration of the period of twenty-eight days beginning with the commencement of this Act or until he becomes liable to be detained or subject to guardianship under this Act, whichever occurs first.

Patients on leave or absent without leave

20.—(1) Sections thirty-nine and forty of this Act shall apply to a patient to whom paragraph 6 of this Schedule applies or a transferred patient who immediately before the commencement of this Act was absent on trial or leave or in pursuance of a licence under

A.D. 1959
6TH SCH.
—cont.

any enactment repealed by this Act or any rules or regulations thereunder, as if he had been granted leave of absence under the said section thirty-nine at the commencement of this Act for an indefinite period, and accordingly a patient to whom paragraph 6 of this Schedule applies may be recalled under the said section thirty-nine at any time within the initial period and a transferred patient may be so recalled at any time within or after the initial period.

(2) Section forty of this Act shall, subject to the next following sub-paragraph, apply to a patient to whom paragraph 6 of this Schedule applies, a transferred patient or a short-period patient who immediately before the commencement of this Act was absent otherwise than as mentioned in the foregoing sub-paragraph from the hospital or other place where he was required to be by virtue of any such enactment, rules or regulations as if he had absented himself without leave or without permission from the hospital or other place as mentioned in subsection (1) of that section or, as the case may be, he were absent without his guardian's permission as mentioned in subsection (2) of that section.

(3) The period within which any patient to whom paragraph 6 of this Schedule applies may be retaken and returned under the said section forty shall be whichever of the following periods is applicable instead of that specified in subsection (3) of that section, that is to say—

- (a) in the case of a patient liable to be detained by virtue of any of the provisions of the Mental Deficiency Act, 1913 (not being a transferred patient), the initial period ;
- (b) in the case of any other patient to whom paragraph 6 of this Schedule applies or any other short-period patient, the period of twenty-eight days beginning with the commencement of this Act ;

and a transferred patient may be retaken and returned under the said section forty at any time.

Supplemental

21. Any information or any opinion recorded by the responsible medical officer under this Part of this Schedule shall be recorded in such form as may be prescribed by regulations made by the Minister.

22.—(1) In this Part of this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say—

“current period of treatment” means, in relation to any patient, the period for which he would have been liable to be detained or subject to guardianship by virtue of any enactment repealed or excluded by this Act, or any enactment repealed or replaced by any such enactment as aforesaid, being a period which began but has not expired before the commencement of this Act ;

“initial period” has the meaning assigned to it by paragraph 6 of this Schedule ;

“the responsible medical officer” means—

(a) 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

A.D. 1959
6TH SCH.
—cont.

that authority to act (either generally or in any particular case or for any particular purpose) as the responsible medical officer ;

(b) in relation to any other class of patient, the medical practitioner in charge of the treatment of the patient ; 5

“transferred patient” has the meaning assigned to it by paragraph 14 of this Schedule ;

“short-period patient” means a patient to whom paragraph 17, 18 or 19 of this Schedule applies.

(2) Subsection (2) of section fifty-eight of this Act shall apply for 10 the purposes of this Part of this Schedule as it applies for the purposes of Part IV of this Act.

PART IV

PROVISIONS RELATING TO PART VIII

23.—(1) The persons who immediately before the commencement 15 of this Act were respectively Master in Lunacy and Assistant Master in Lunacy shall by virtue of this sub-paragraph continue in office as Master and Deputy Master of the Court of Protection ; and it shall not be necessary for the Master to take the oaths required by subsection (1) of section one hundred and thirteen of this Act. 20

(2) The persons who immediately before the commencement of this Act were clerks and other officers of the Master in Lunacy shall by virtue of this sub-paragraph continue in office as officers of the Court of Protection.

24. Any order or appointment made, direction or authority given, 25 or thing done, which—

(a) had effect immediately before the commencement of this Act with respect to the property or affairs of a person falling within subsection (1) of section one hundred and sixteen of the Lunacy Act, 1890, or section sixty-four of the 30 Mental Deficiency Act, 1913, and

(b) was such as could have been made, given or done under any provision of Part VIII of this Act if that provision had been in force at the material time,

shall continue to have effect as if made, given or done under that 35 provision.

25. A person who, immediately before the commencement of this Act, was the committee of the estate of a person of unsound mind so found by inquisition shall thereafter be deemed to be a receiver for that person appointed under section one hundred and three of this 40 Act with such functions in relation to that person's property and affairs as were exercisable by him in relation thereto as committee of the estate, and references in any document to such a committee shall be construed accordingly.

26. Subsection (1) of section one hundred and five of this Act 45 shall apply in relation to any disposal of property (within the meaning of that subsection) of a person living at the commencement of this Act, being a disposal effected under the Lunacy Act, 1890, as it applies in relation to the disposal of the property of a person effected under Part VIII of this Act. 50

27. Rules under Part VIII of this Act may contain transitional provisions with respect to proceedings pending at the commencement of this Act.

A.D. 1959

Section 144.

SEVENTH SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS

*Enactment**Amendment*

- 5 The Fines and Recoveries Act, 1833, 3 & 4 Will. 4. c. 74.
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- 45 The Court of Chancery of Lancaster Act, 1850, 13 & 14 Vict. c. 43.
- 50
- In section thirty-three, for the words from "lunatic" where it first occurs to "unsound mind as aforesaid" there shall be substituted the words "incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs, the judge having jurisdiction under Part VIII of that Act shall be the protector of the settlement in his stead so long as he is incapable as aforesaid".
- In sections forty-eight and forty-nine, for the references to the Lord High Chancellor, Lord Keeper or Lords Commissioners for the custody of the Great Seal or other the person or persons intrusted as mentioned in those sections there shall be substituted references to the judge having jurisdiction under Part VIII of this Act.
- In section ninety-one, for the words from "being a lunatic" to "inquisition or not" there shall be substituted the words "suffering from mental disorder" and for the reference to the Lord High Chancellor, Lord Keeper or Lords Commissioners for the custody of the Great Seal or other the person or persons intrusted as mentioned in that section there shall be substituted a reference to the judge having jurisdiction under Part VIII of this Act.
- In section nine, for the words from "person" to "inquisition" there shall be substituted the words "person suffering from mental disorder within the meaning of the Mental Health Act, 1959".
- In section ten, for the words "lunatic, or person of unsound mind" there shall be substituted the words "or person suffering from mental disorder within the meaning of the

A.D. 1959
7TH SCH.
—cont.

Enactment

The Court of Chancery of
Lancaster Act, 1850, 13 & 14
Vict. c. 43—cont.

The Improvement of Land Act,
1864, 27 & 28 Vict. c. 114.

The Naval Enlistment Act,
1884, 47 & 48 Vict. c. 46.

The Forgery Act, 1913, 3 & 4
Geo. 5. c. 27.

The Settled Land Act, 1925,
15 & 16 Geo. 5. c. 18.

The Trustee Act, 1925, 15 & 16
Geo. 5. c. 19.

Amendment

Mental Health Act, 1959", and
for the words from "committee"
to "mind" there shall be substi-
tuted the words "receiver or
guardian ad litem of a person
suffering from mental disorder as
aforesaid, and of the guardian ad
litem of any infant,".

In section sixty-eight, for the words
"committee, or trustee" there
shall be substituted the words "or
receiver" and for the words
"lunatic, idiot" there shall be
substituted the words "or patient
within the meaning of Part VIII of
the Mental Health Act, 1959".

In section three, after the word
"1955" there shall be inserted
the words "as amended by the
Mental Health Act, 1959".

In section three, in paragraph (d) of
subsection (3), for the words "any
master or registrar in lunacy"
there shall be substituted the words
"the authority having jurisdiction
under Part VIII of the Mental
Health Act, 1959".

In section five, in paragraph (b) of
subsection (3), for the words "the
office of any master or registrar in
lunacy" there shall be substituted
the words "the Court of Protec-
tion".

In section sixty-eight, in subsection
(3), for the words "a lunatic, or a
defective" there shall be substi-
tuted the words "suffering from
mental disorder".

In section thirty-six, the following
subsection shall be substituted for
subsection (9)—

"(9) Where a trustee is in-
capable, by reason of mental
disorder within the meaning of
the Mental Health Act, 1959,
of exercising his functions as
trustee and is also entitled in
possession to some beneficial
interest in the trust property, no
appointment of a new trustee in
his place shall be made by virtue
of paragraph (b) of subsection
(1) of this section unless leave
to make the appointment has
been given by the authority

Enactment

The Trustee Act, 1925, 15 & 16
Geo. 5. c. 9—*cont.*

Amendment

having jurisdiction under Part
VIII of the Mental Health Act,
1959.”

A.D. 1959

7TH SCH.
—*cont.*

5

In section forty-one, in subsection
(1), for the words “ a lunatic or a
defective ” there shall be substi-
tuted the words “ incapable, by
reason of mental disorder within
the meaning of the Mental Health
Act, 1959, of exercising his func-
tions as trustee ”.

10

The following section shall be sub-
stituted for section fifty-four—

15

“ Jurisdic-
tion in
regard to
mental
patients.

54.—(1) Subject to the provi-
sions of this section, the autho-
rity having jurisdiction under
Part VIII of the Mental Health
Act, 1959 shall not have power
to make any order, or give any
direction or authority, in relation
to a patient who is a trustee if
the High Court has power under
this Act to make an order to
the like effect.

20

25

(2) Where a patient is a trustee
and a receiver appointed by
the said authority is acting for
him or an application for the
appointment of a receiver has
been made but not determined,
then, except as respects a trust
which is subject to an order for
administration made by the
High Court, the said authority
shall have concurrent jurisdic-
tion with the High Court in
relation to—

30

35

40

(a) mortgaged property of
which the patient has be-
come a trustee merely by
reason of the mortgage
having been paid off;

45

(b) matters consequent on the
making of provision by the
said authority for the exer-
cise of a power of appoint-
ing trustees or retiring
from a trust;

50

(c) matters consequent on the
making of provision by the
said authority for the carry-
ing out of any contract
entered into by the patient;

A.D. 1959

*Enactment**Amendment*7TH SCH.
—cont.The Trustee Act, 1925, 15 & 16
Geo. 5. c. 19—cont.

(d) property to some interest in which the patient is beneficially entitled but which, or some interest in which, is held by the patient under an express, implied or constructive trust. 5

The Lord Chancellor may make rules with respect to the exercise of the jurisdiction referred to in this subsection. 15

(3) In this section "patient" means a patient as defined by section ninety-nine of the Mental Health Act, 1959 or a person as to whom powers are exercisable and have been exercised under section one hundred and two of that Act." 20

In section fifty-five (except so far as it applies to vesting orders made before the commencement of this Act), for the words "the Lunacy Act, 1890" there shall be substituted the words "Part VIII of the Mental Health Act, 1959". 25

The Law of Property Act, 1925,
15 & 16 Geo. 5. c. 20.

The following section shall be substituted for section twenty-two—

"Conveyances on behalf of persons suffering from mental disorder and as to land held by them on trust for sale. 22.—(1) Where a legal estate in land (whether settled or not) is vested in a person suffering from mental disorder, either solely or jointly with any other person or persons, his receiver or (if no receiver is acting for him) any person authorised in that behalf shall, under an order of the authority having jurisdiction under Part VIII of the Mental Health Act, 1959 or of the court, or under any statutory power, make or concur in making all requisite dispositions for conveying or creating a legal estate in his name and on his behalf. 30 35 40 45 50 55

(2) If land held on trust for sale is vested, either solely or jointly with any other person or persons, in a person who is incapable, by reason of mental disorder, of exercising his functions as trustee, a new trustee shall be appointed in the place 55

Enactment

The Law of Property Act, 1925,
15 & 16 Geo. 5. c. 20—*cont.*

Amendment

A.D. 1959

7TH SCH.
—*cont.*

5

of that person, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale."

10

In section twenty-six, in subsection (2), the words "committee or" shall be omitted, and for the words "lunatic or defective" there shall be substituted the words "person suffering from mental disorder".

15

In section twenty-eight, in proviso (i) of subsection (3), for the words "lunatic or defective" there shall be substituted the words "person suffering from mental disorder", and the words "committee or" shall be omitted.

20

In section two hundred and five, in subsection (1), the following paragraph shall be substituted for paragraph (xiii)—

25

"(xiii) 'Mental disorder' has the meaning assigned to it by section four of the Mental Health Act, 1959 and 'receiver', in relation to a person suffering from mental disorder, means a receiver appointed for that person under Part VIII of that Act;"

30

The Land Registration Act,
35 1925, 15 & 16 Geo. 5. c. 21.

In section one hundred and eleven, in subsection (5), for the words from "a lunatic" to the words "lunacy or" there shall be substituted the words "incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs, his receiver shall, under an order of the authority having jurisdiction under Part VIII of the Mental Health Act, 1959 or" and for the words "lunatic or defective" in each place where they occur there shall be substituted the words "the proprietor", and in subsection (6), for the words "the Lunacy Act, 1890" there shall be substituted the words "Part VIII of the Mental Health Act, 1959".

40

45

50

55

A.D. 1959

*Enactment**Amendment*7TH SCH.
—cont.

The Administration of Estates
Act, 1925, 15 & 16 Geo. 5.
c. 23.

In section forty-one, in subsection
(1), in paragraph (ii) of the proviso,
for the words "a lunatic or
defective" there shall be substituted 5
the words "is incapable, by
reason of mental disorder within
the meaning of the Mental Health
Act, 1959, of managing and ad-
ministering his property and 10
affairs" and the word "com-
mittee" shall be omitted, and in
paragraph (iv) of the proviso, for
the words from "committee" to
"appointed" there shall be sub- 15
stituted the words "receiver is
acting for a person suffering
from mental disorder", and for
the words "lunatic or defective" 20
in the second place where they
occur there shall be substituted
the words "said person".

The Supreme Court of Judi-
cature (Consolidation) Act,
1925, 15 & 16 Geo. 5. c. 49.

In section sixty-eight, in subsection
(5), in paragraph (a) of the proviso,
for the words "person of unsound 25
mind, whether so found by inquisi-
tion or not" there shall be substi-
tuted the words "person who is
incapable, by reason of mental
disorder within the meaning of the 30
Mental Health Act, 1959, of
managing and administering his
property and affairs", for the word
"committee" there shall be sub-
stituted the word "receiver", and 35
for the words from "any com-
mittee" to the end of the para-
graph there shall be substituted
the words "any receiver of a per-
son suffering from mental disorder 40
and that person, unless with the
previous sanction of the authority
having jurisdiction under Part VIII
of the Mental Health Act, 1959".

In section one hundred and twenty- 45
nine, in subsection (1), for the
words "in matters and proceed-
ings in lunacy a judge or master in
lunacy" there shall be substituted
the words "in proceedings before 50
the authority having jurisdiction
under Part VIII of the Mental
Health Act, 1959, that authority".

Enactment

The Supreme Court of Judicature (Consolidation) Act, 1925, 15 & 16 Geo. 5. c. 49
 5 —cont.

Amendment

In section one hundred and forty-nine, for the words "the Lord Chancellor and any person exercising the powers of the judge in lunacy" there shall be substituted the words "the authority having jurisdiction under Part VIII of the Mental Health Act, 1959".

In section two hundred and twenty-five, in the definition of "Officer of the Supreme Court", for the words from "salaries" to "lunacy" there shall be substituted the words "salaries, pensions and allowances of officers includes an officer of the Court of Protection or of the Lord Chancellor's Visitors".

In the Third Schedule, for the words "Master in Lunacy" there shall be substituted the words "Master of the Court of Protection", for the words "Legal Visitor in Lunacy" there shall be substituted the words "Lord Chancellor's Legal Visitor" and for the words "Medical Visitor in Lunacy" there shall be substituted the words "Lord Chancellor's Medical Visitor".

In the Fourth Schedule, for the words "Master in Lunacy" wherever they occur there shall be substituted the words "Master of the Court of Protection", and in paragraph 4, there shall be inserted at the end the words "or

(iv) the Deputy Master of the Court of Protection.",

and in paragraph 8, for the words "Legal Visitor in Lunacy" there shall be substituted the words "Lord Chancellor's Legal Visitor".

45 The Children and Young Persons Act, 1933, 23 & 24 Geo. 5. c. 12.

In section ninety-two, for the words from "but does not include" to the end of the section there shall be substituted the words "but does not include any mental nursing home or residential home for mentally disordered persons within the meaning of Part III of the Mental Health Act, 1959".

In the Fourth Schedule, paragraph 4, the words from "and shall" to the end of the paragraph shall be omitted.

A.D. 1959
 7TH SCH.
 —cont.

A.D. 1959

*Enactment**Amendment*7TH SCH.
—cont.The Pharmacy and Poisons
Act, 1933, 23 & 24 Geo. 5.
c. 25.

In section ten, in subsection (6), for the words from "trustee" to "powers of a committee" there shall be substituted the words "or trustee, or a receiver appointed under Part VIII of the Mental Health Act, 1959".

5

In section thirty, in paragraph (f), for the words from "references" to "of a committee" there shall be substituted the words "reference to a receiver".

10

The Public Health Act, 1936,
26 Geo. 5 & 1 Edw. 8. c. 49.

In section one hundred and ninety-nine, in subsection (1), in the definition of "nursing home", for paragraphs (ii) and (iii) there shall be substituted the following paragraph:—

15

"(ii) except so far as this Part of this Act is applied thereto by Part III of the Mental Health Act, 1959, any mental nursing home within the meaning of that Act."

25

The Public Health (London)
Act, 1936, 26 Geo. 5 &
1 Edw. 8. c. 50.

In section three hundred and four, in subsection (1), in the definition of "nursing home", for paragraphs (ii) and (iii) there shall be substituted the following paragraph:—

30

"(ii) except so far as Part XI of this Act is applied thereto by Part III of the Mental Health Act, 1959, any mental nursing home within the meaning of that Act."

35

The Limitation Act, 1939, 2 & 3
Geo. 6. c. 21.

In section thirty-one, in subsection (3) (except so far as it relates to any period before the commencement of this Act), for paragraphs (a) and (b) there shall be substituted the following paragraphs:—

40

"(a) while he is liable to be detained or subject to guardianship under the Mental Health Act, 1959; and

45

(b) while he is receiving treatment as an in-patient in any hospital or mental nursing home within the meaning of that Act without being liable to be detained thereunder,

50

Enactments

The Limitation Act, 1939, 2 & 3
Geo. 6. c. 21.—*cont.*

5

10 The Education Act, 1944,
7 & 8 Geo. 6. c. 31.

15

20 The Teachers' Superannuation
Act, 1945, 8 & 9 Geo. 6. c. 14.

25

30

35

40

45

50

55

Amendment

being treatment which follows
without any interval a period
during which he was liable to
be detained or subject to
guardianship under that Act
or by virtue of any enactment
repealed or excluded by that
Act ”.

In section one hundred and sixteen,
for the words from “ person who
is the subject of an order or
inquisition ” to “ education at
school ” there shall be substituted
the words “ child who is for the
time being the subject of a
decision recorded under section
fifty-seven of this Act ”.

In section one, in subsection (1),
after paragraph (d) there shall be
inserted the following paragraph—

“(dd) As a teacher of such kind
as may be prescribed of
mentally disordered patients
who is employed—

(i) in a hospital vested in
the Minister of Health under
the National Health Service
Act, 1946;

(ii) by a local health
authority in the exercise of
their functions under sec-
tion twenty-eight of the
said Act of 1946;

(iii) by a voluntary or-
ganisation to which a local
health authority is making
contributions under that
section ”;

and after paragraph (e) there shall
be inserted the following para-
graph—

“(ee) As a teacher employed in
a mental nursing home or
residential home for mentally
disordered persons within the
meaning of Part III of the
Mental Health Act, 1959,
being a teacher who at any
time before the coming into
operation of the said Part III
was employed in recognised
or contributory service in any
such certified institution as
aforesaid ”.

A.D. 1959

7TH SCH.

—*cont.*

	<i>Enactment</i>	<i>Amendment</i>
A.D. 1959	The National Health Service Act, 1946, 9 & 10 Geo. 6. c. 81.	In section sixteen, the words "or mental defectiveness" shall be omitted.
7TH SCH. —cont.		In section twenty-seven, in subsection (1), the words "or mental defectiveness" shall be omitted. 5
		In section twenty-eight, in subsection (1), the words "or mental defectiveness" shall be omitted. 10
		In section twenty-nine, in subsection (1), the words "mentally defective" shall be omitted.
		In section sixty-three, for the words "the Mental Deficiency Acts, 1913 to 1938" there shall be substituted the words "section twenty-eight of this Act as extended by Part II of the Mental Health Act, 1959". 15 20
		In section seventy-nine, in subsection (1), in the definition of "hospital" the words "or mental defectiveness" shall be omitted; and in the definition of "illness", for the words "mental illness" there shall be substituted the words "mental disorder within the meaning of the Mental Health Act, 1959". 25 30
	The Polish Re-settlement Act, 1947, 10 & 11 Geo. 6. c. 19.	In section four, in subsection (1), for the words "the Lunacy and Mental Treatment Acts, 1890 to 1930 or the Mental Deficiency Acts, 1913 to 1938" there shall be substituted the words "the Mental Health Act, 1959". 35
		In section eleven, in subsection (3), in paragraph (b), for the words "the Lunacy and Mental Treatment Acts, 1890 to 1930 and the Mental Deficiency Acts, 1913 to 1938" there shall be substituted the words "the Mental Health Act, 1959". 40
	The National Assistance Act, 1948, 11 & 12 Geo. 6. c. 29.	In section thirty-seven, in subsection (9), at the end of paragraph (d) of the proviso there shall be added the words "including any mental nursing home within the meaning of Part III of the Mental Health Act, 1959", and after paragraph (g) there shall be inserted the following paragraph:— 45 50
		"(h) except as provided by Part III of the Mental Health 55

Enactment

The National Assistance Act,
1948, 11 & 12 Geo. 6. c. 29.
—*cont.*

5

10

15

The Children Act, 1948, 11 & 12
Geo. 6. c. 43.

20

The Criminal Justice Act, 1948,
11 & 12 Geo. 6. c. 58.

25

30

35

40

45

50

Amendment

Act, 1959, any residential
home for mentally disordered
persons within the meaning of
the said Part III ”.

In section forty-nine, for the words
from “section one” to “that
section” there shall be substituted
the words “Part VIII of the
Mental Health Act, 1959 as re-
ceiver for a patient or as a person
otherwise having functions in rela-
tion to the property and affairs of a
patient”, and for the words “the
said powers” there shall be sub-
stituted the words “such func-
tions”.

In section thirty-nine, in subsection
(1), after paragraph (b) there shall
be inserted the following para-
graph:—

“(bb) Part II of the Mental
Health Act, 1959 ”.

In section four, in subsection (1), for
the words from “appearing” to
“1913” there shall be substituted
the words “approved for the pur-
poses of section twenty-eight of
the Mental Health Act, 1959, that
the mental condition of an offender
is such as requires and may be
susceptible to treatment but is not
such as to render him suitable to
be detained in pursuance of a
hospital order under Part V of
that Act”.

In subsection (2) of that section, the
following paragraph shall be sub-
stituted for paragraphs (a) and
(b):—

“(a) treatment as a resident
patient in a hospital or mental
nursing home within the
meaning of the Mental Health
Act, 1959, not being a state
institution within the meaning
of that Act.”

In subsection (3) of that section, the
words “or can be” and the words
“as a voluntary patient or” shall
be omitted.

In subsection (4) of that section, the
words “as a voluntary patient or”
shall be omitted.

A.D. 1959

7TH SCH.
—*cont.*

A.D. 1959

*Enactment**Amendment*7TH SCH.
—cont.The Criminal Justice Act, 1948,
11 & 12 Geo. 6. c. 58.—cont.For subsections (7) and (8) of that
section there shall be substituted
the following subsection:—

“(7) Subsections (2) and (3)
of section sixty-one of the
Mental Health Act, 1959, shall
apply for the purposes of this
section as if for the reference in
the said subsection (2) to section 10
fifty-nine of that Act there were
substituted a reference to sub-
section (1) of this section.”

The National Service Act, 1948,
11 & 12 Geo. 6. c. 64.In the First Schedule, for paragraph 3
there shall be substituted the 15
following paragraph:—

“3. A person who—

(a) is receiving treatment for
mental disorder as an in-
patient in a hospital within 20
the meaning of the Mental
Health Act, 1959, or is
receiving such treatment as
an in-patient in any other
place at the expense of a 25
Regional Hospital Board;
or

(b) is suffering from severe
subnormality within the
meaning of that Act and 30
is either resident in accom-
modation provided by, or
by arrangement with, a local
health authority under
section twenty-eight of the 35
National Health Service
Act, 1946 or is otherwise
receiving care from a local
health authority under that
section.” 40

The Recall of Army and Air
Force Pensioners Act, 1948,
12, 13 & 14 Geo. 6. c. 8.In the Schedule for paragraph 2
there shall be substituted the
following paragraph:—

“2. A person who is receiving
treatment for mental disorder as 45
an in-patient in a hospital
within the meaning of the
Mental Health Act, 1959, or is
receiving such treatment as an
in-patient in any other place 50
at the expense of a Regional
Hospital Board”.

Enactment

Amendment

A.D. 1959

7TH SCH.

—cont.

The Representation of the
People Act, 1949, 12, 13 & 14
Geo. 6. c. 68.

5

Section four shall have effect, in its application to England and Wales, as if for the words "or mental defectiveness" there were substituted the words "or other form of mental disorder" and, in its application to Northern Ireland, as if for the words "or mental defectiveness" there were substituted the words "or arrested or incomplete development of mind".

10

The National Health Service
(Amendment) Act, 1949, 12,
13 & 14 Geo. 6. c. 93.

15

For section twenty-five there shall be substituted the following section:—

"25.—(1) Where a medical practitioner carries out a medical examination of any person with a view to an application for his admission to hospital for observation or treatment being made under Part IV of the Mental Health Act, 1959, the local health authority for the area where the person examined resides shall, subject to the following provisions of this section, pay to that medical practitioner reasonable remuneration in respect of the said examination and in respect of any recommendation or report made by him with regard to the person examined and the amount of any expenses reasonably incurred by him in connection with the examination or the making of any such recommendation or report.

20

25

30

35

40

45

50

(2) No payment shall be made under this section to a medical practitioner in respect of an examination carried out as part of his duty to provide general medical services for the person examined or in respect of an examination carried out or any recommendation or report made as part of his duty as an officer of a Regional Hospital Board or a Board of Governors of a teaching hospital.

A.D. 1959

7TH SCH.
—cont.*Enactment*

The National Health Service
(Amendment) Act, 1949, 12,
13 & 14 Geo. 6. c. 93.—cont.

Amendment

(3) This section shall only
apply in a case where it is
intended, when the medical
examination of the person in 5
question is carried out, that if
he is admitted to hospital in
pursuance of any such applica-
tion, order or direction as is
mentioned in subsection (1) of 10
this section, the whole cost of
his maintenance and treatment
will be defrayed out of moneys
provided by Parliament under
the National Health Service Act, 15
1946 or the Mental Health Act,
1959."

The Matrimonial Causes Act,
1950, 14 Geo. 6. c. 25.

In section one, in subsection (2)
(except so far as it relates to any
time before the commencement of 20
this Act) for paragraph (a) there
shall be substituted the following
paragraph:—

"(a) while he is liable to be
detained in a hospital or 25
mental nursing home in pur-
suance of an application for
admission under Part IV of
the Mental Health Act, 1959
or of an order or direction 30
under Part V of that Act",
and in paragraph (d), the words
"the Mental Treatment Act, 1930,
or under" shall be omitted.

In section eight, in subsection (1) 35
(except so far as it relates to a
marriage celebrated before the
commencement of this Act) in
paragraph (b), for the words from
"a mental defective" to "1938" 40
there shall be substituted the words
"was then suffering from mental
disorder within the meaning of the
Mental Health Act, 1959, of such
a kind or to such an extent as to 45
be unfitted for marriage and the
procreation of children", and for
the word "fits" there shall be
substituted the word "attacks".

In section twenty-seven, in sub- 50
section (2), in paragraph (b), after
the word "deficiency" there shall
be inserted the words "or dis-
order".

Enactment

Amendment

A.D. 1959

7TH SCH.

—cont.

The Administration of Justice
(Pensions) Act, 1950, 14 & 15
Geo. 6. c. 11.

5

In the First Schedule, for the words
“Master in Lunacy” and “Legal
Visitor in Lunacy” there shall be
substituted respectively the words
“Master of the Court of Pro-
tection” and “Lord Chancellor’s
Legal Visitor”.

The Costs in Criminal Cases
Act, 1952, 15 & 16 Geo. 6.
and 1 Eliz. 2. c. 48.

10

In section fourteen, in subsection (1),
after the words “that Act” there
shall be inserted the words “or
with a view to the making of a
hospital order with an order
restricting his discharge under
Part V of the Mental Health Act,
1959”.

15

The Magistrates’ Courts Act,
1952, 15 & 16 Geo. 6 and
1 Eliz. 2. c. 55.

20

In section twenty-six, in subsection
(1), for the words “the offence
has been committed by the ac-
cused” there shall be substituted
the words “the accused did the act
or made the omission charged”;
in subsection (3), for the words
from “shall undergo” to the
words “may be so specified”
there shall be substituted the words
“shall—

25

(a) undergo medical examination
by a duly qualified medical
practitioner or, where the
inquiry is into his mental con-
dition and the recognizance
so specifies, two such practi-
tioners; and

30

(b) for the purpose attend at an
institution or place, or on any
such practitioner, specified in
the recognizance and, where
the inquiry is into his mental
condition, comply with any
directions which may be given
to him for the said purpose
by any person so specified or
by a person of any class so
specified”.

35

40

45

and for the words “for such period
as may be specified in the recog-
nizance” there shall be substituted
the words “until the expiration of
such period as may be specified in
the recognizance or he is discharged
therefrom, whichever occurs first”;

50

A.D. 1959

Enactment

Amendment

7TH SCH.
—cont.

The Magistrates' Courts Act, 1952, 15 & 16 Geo. 6 and 1 Eliz. 2. c. 55.—cont.

in subsection (4), for the words from "it may" to the end of the subsection there shall be substituted the words "the conditions of the recognizance taken for the purpose of his committal may, in addition to the condition for his appearance, include the like conditions as could be included in the conditions of a recognizance with respect to the like inquiry by virtue of the last preceding subsection"; and subsection (6) shall cease to have effect. 5 10 15

The Local Government Superannuation Act, 1953, 1 & 2 Eliz. 2. c. 25.

In section fifteen, in subsection (1), in paragraph (a) for the words "the Mental Deficiency Acts, 1913 to 1938" there shall be substituted the words "the Mental Health Act, 1959". 20

The Army Act, 1955, 3 & 4 Eliz. 2. c. 18.

No order shall be made under section sixteen directing that a soldier be received into a hospital in England and Wales; and accordingly, in subsection (2), for the words "Great Britain" there shall be substituted the word "Scotland". 25

The Air Force Act, 1955, 3 & 4 Eliz. 2. c. 19.

No order shall be made under section sixteen directing that an airman be received into a hospital in England and Wales; and accordingly, in subsection (2), for the words "Great Britain" there shall be substituted the word "Scotland". 30 35

The Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955, 3 & 4 Eliz. 2. c. 20.

In the Second Schedule, in paragraph 2, after the word "1955" there shall be inserted the words "as amended by the Mental Health Act, 1959". 40

The Sexual Offences Act, 1956, 4 & 5 Eliz. 2. c. 69.

In the Second Schedule, in paragraph 1, in the fourth column, for the words "an idiot or imbecile" there shall be substituted the words "a defective"; in paragraph 11, in the first column, for the words "idiot or imbecile" there shall be substituted the word "defective"; and in paragraph 14, in the fourth column, for the words "an idiot or imbecile" there shall be substituted the words "a defective". 45 50

*Enactment**Amendment*

The Nurses Act, 1957, 5 & 6
Eliz. 2. c. 15.

In section two, in subsection (1), for
the word "diseases" there shall
be substituted the word "dis-
order".

A.D. 1959

7TH SCH.
—cont.

5

In section eighteen, in subsection (3),
for the word "diseases" there
shall be substituted the word
"disorder".

10

In section thirty-three, in subsection
(1), for the definition of "mental
hospital" there shall be substituted
the following definition, that is to
say " 'mental hospital' means any
hospital or mental nursing home
within the meaning of the Mental
Health Act, 1959 wholly or mainly
used for the treatment of persons
suffering from mental disorder",
and in the definition of "registered
mental nurse" for the word
"diseases" there shall be substi-
tuted the word "disorder".

15

20

25

The Solicitors Act, 1957,
5 & 6 Eliz. 2. c. 27.

In the Third Schedule, in paragraph
1, in sub-paragraph (3), for the
word "diseases" there shall be
substituted the word "disorder".

30

In section twelve, in paragraph (e) of
subsection (1), for the words
"Part IV of the Lunacy Act,
1890" there shall be substituted
the words "Part VIII of the
Mental Health Act, 1959".

The Variation of Trusts Act,
1958, 6 & 7 Eliz. 2. c. 53.

In section one, in subsection (3), for
the words from "the Judge" to
the end of the subsection there
shall be substituted the words
"the authority having jurisdiction
under Part VIII of the Mental
Health Act, 1959 if that person is a
patient within the meaning of the
said Part VIII", and in sub-
section (6), for the words from
"section one hundred and seventy-
one" to the end of the subsection
there shall be substituted the words
"the powers of the authority
having jurisdiction under Part
VIII of the Mental Health Act,
1959".

40

45

50

The Local Government Act,
1958, 6 & 7 Eliz. 2. c. 55.

In section forty-six, in subsection (1),
references to Part III of the
National Health Service Act, 1946,
and to section twenty-eight of that
Act, and references to sections
twenty-nine and thirty of the
National Assistance Act, 1948,

55

A.D. 1959
7TH SCH.
—cont.

Enactment

The Local Government Act,
1958, 6 & 7 Eliz. 2 c. 55—cont.

Amendment

shall include references to those enactments as amended by this Act: for paragraphs (d) and (e) there shall be substituted the following paragraph—

“(d) the Mental Health Act, 1959, except so far as it amends Part III of the National Health Service Act, 1946”;

In Part III of the First Schedule, in paragraph 4, in sub-paragraph (1), for the words “occupation centres provided for the purposes of paragraph (cc) of section thirteen of the Mental Deficiency Act, 1913” there shall be substituted the words “centres provided under section twenty-eight of the National Health Service Act, 1946, for the occupation or training of persons who are or have been suffering from mental disorder” and, in sub-paragraph (2), after “occupation” insert “or training”.

In the Eighth Schedule, paragraph 19 shall cease to have effect.

The Children Act, 1958, 6 & 7 Eliz. 2. c. 65.

In section two, for subsection (5) there shall be substituted the following subsection:—

“(5) A child who is a severely subnormal, subnormal or psychopathic patient within the meaning of the Mental Health Act, 1959 is not a foster child within the meaning of this Part of this Act while he is liable to be detained under Part IV or Part V of the Mental Health Act, 1959 (not being detained in a hospital or mental nursing home) or is subject to guardianship under Part IV or Part V of that Act; and a child is not a foster child within the meaning of this Part of this Act while he is resident in a residential home for mentally disordered persons within the meaning of Part III of that Act”.

The Adoption Act, 1958, 7 Eliz. 2. c. 5.

In section thirty-seven, in subsection (3), at the end there shall be added the words “or while he is liable to be detained or subject to guardianship as mentioned in the said subsection (5).”

EIGHTH SCHEDULE

ENACTMENTS REPEALED

A.D. 1959

Section 144.

PART I

5	Session and Chapter	Short Title	Extent of Repeal
	—	The Statute Prerogativa Regis.	Chapters xi and xii.
	51 Geo. 3. c. 37	The Marriage of Lunatics Act, 1811.	The whole Act.
10	1 & 2 Vict. c. 106.	The Pluralities Act, 1838	Section seventy-nine.
	1 & 2 Vict. c. 110.	The Judgments Act, 1838	In section eighteen, the words "and all orders of the Lord Chancellor in matters of lunacy" and the words "and by the Lord Chancellor in matters of lunacy".
15			Section six.
	2 & 3 Vict. c. 51.	The Pensions Act, 1839...	
20	12 & 13 Vict. c. 45.	The Quarter Sessions Act, 1849.	In section two the words "or against an order under any statute relating to pauper lunatics".
	15 & 16 Vict. c. 87.	The Court of Chancery Act, 1852.	The whole Act.
25	23 & 24 Vict. c. 75.	The Criminal Lunatic Asylums Act, 1860.	The whole Act.
	34 & 35 Vict. c. 44.	The Incumbents Resignation Act, 1871.	Section eighteen.
30	36 & 37 Vict. c. 57.	The Consolidated Fund (Permanent Charges Redemption) Act, 1873.	In section seven, in the definition of "limited owner", the words "a committee of a lunatic or idiot".
	47 & 48 Vict. c. 64.	The Criminal Lunatics Act, 1884.	The whole Act.
35	49 & 50 Vict. c. 16.	The Lunacy (Vacating of Seats) Act, 1886.	The whole Act.
	53 & 54 Vict. c. 5.	The Lunacy Act, 1890	The whole Act.
40	53 & 54 Vict. c. 39.	The Partnership Act, 1890	In section thirty-five, paragraph (a).
	54 & 55 Vict. c. 65.	The Lunacy Act, 1891	The whole Act.
	8 Edw. 7. c. 47	The Lunacy Act, 1908 ...	The whole Act.
45	3 & 4 Geo. 5. c. 28.	The Mental Deficiency Act, 1913.	The whole Act.
	6 & 7 Geo. 5. c. 31.	The Police, Factories, &c. (Miscellaneous Provisions) Act, 1916.	Section eleven.
50	12 & 13 Geo. 5. c. 16.	The Law of Property Act, 1922.	In section one hundred and eighty-eight, paragraph (19).
	12 & 13 Geo. 5. c. 60.	The Lunacy Act, 1922 ...	The whole Act.
	15 & 16 Geo. 5. c. 18.	The Settled Land Act, 1925.	Section twenty-eight.
55			In section one hundred and seventeen, in subsection (1), paragraph (xiii).

A.D. 1959
8TH SCH.
—cont.

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 19.	The Trustee Act, 1925 ...	In section sixty-eight, in paragraph (15), the words " 'lunatic', 'defective' ". 5
15 & 16 Geo. 5. c. 20.	The Law of Property Act, 1925.	In section seventy-six, in paragraph (F) of subsection (1), the words "or as committee of a lunatic or as receiver of a defective," and in subsection (4), the words "or as committee of a lunatic, or as receiver of a defective". 10 In section seventy-seven, in subsection (4), the words "or as committee of a lunatic, or as receiver of a defective,". 15 Section one hundred and seventy-one. In the Second Schedule, in the cross-heading to Part VI, the words "or as committee of a lunatic or as a receiver of a defective". 20
15 & 16 Geo. 5. c. 21.	The Land Registration Act, 1925.	In section three, in paragraph (xxvi), the words " 'committee' ", " 'lunatic' " and " 'defective' ". 25
15 & 16 Geo. 5. c. 23.	The Administration of Estates Act, 1925.	In section fifty-one, in subsection (2), the words "committee or". 30 In section fifty-five, in paragraph (viii) of subsection (1), the definition of "committee". 35
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act, 1925.	In section twenty-six, in subsection (2), in paragraph (c), the words from "or from any order" to the end of the paragraph. 40 Section one hundred and twenty-four.
15 & 16 Geo. 5. c. 53.	The Mental Deficiency (Amendment) Act, 1925.	The whole Act. 45
17 & 18 Geo. 5. c. 33.	The Mental Deficiency Act, 1927.	The whole Act.
20 & 21 Geo. 5. c. 23.	The Mental Treatment Act, 1930.	The whole Act.
23 & 24 Geo. 5. c. 12.	The Children and Young Persons Act, 1933.	In the Fourth Schedule, in paragraph 4, the words from "and shall" to the end of the paragraph. 50
23 & 24 Geo. 5. c. 36.	The Administration of Justice (Miscellaneous Provisions) Act, 1933.	Section eight. 55

A.D. 1959
8TH SCH.
—cont.

Session and Chapter	Short Title	Extent of Repeal
1 & 2 Geo. 6. c. 43.	The Mental Deficiency Act, 1938.	The whole Act.
5 2 & 3 Geo. 6. c. 31.	The Civil Defence Act, 1939.	In section sixty-six, in subsection (2), the word "committee" in each place where it occurs.
7 & 8 Geo. 6. c. 31.	The Education Act, 1944	Section fifty-seven.
10 9 & 10 Geo. 6. c. 81.	The National Health Service Act, 1946.	In section sixteen, in subsection (1), the words "or mental defectiveness". In section twenty-seven, in subsection (1) the words "or mental defectiveness". In section twenty-eight, in subsection (1) the words "or mental defectiveness". In section twenty-nine, in subsection (1) the words "mentally defective". Sections forty-nine to fifty-one. In section fifty-two, in subsection (1), the words "the Lunacy and Mental Treatment Acts, 1890 to 1930 or the Mental Deficiency Acts, 1913 to 1938".
15		Schedules 8 and 9.
20		In section thirty-seven, in the proviso to subsection (9), the words "any institution for persons of unsound mind within the meaning of the Lunacy and Mental Treatment Acts, 1890 to 1930, or", the words "the Mental Deficiency Acts, 1913 to 1927, or" and the word "or" at the end of paragraph (f).
25		In the Sixth Schedule, in paragraph 7, sub-paragraphs (2) and (3).
30	11 & 12 Geo. 6. c. 29.	The National Assistance Act, 1948.
35		
40		
45	11 & 12 Geo. 6. c. 40.	The Education (Miscellaneous Provisions) Act, 1948.
	11 & 12 Geo. 6. c. 43.	The Children Act, 1948
50	11 & 12 Geo. 6. c. 58.	The Criminal Justice Act, 1948.
55		In section four, in subsection (3), the words "or can be" and the words "as a voluntary patient or," and in subsection (4), the words "as a voluntary patient or". Sections sixty-two to sixty-four. In section seventy-seven, in subsection (2), the words from

A.D. 1959
8TH SCH.
—cont.

Session and Chapter	Short Title	Enactments
11 & 12 Geo. 6 c. 58—cont.		the beginning to "Treasury, and". In section eighty, in subsection (1), the definition of "mental hospital". 5 Section eighty-four.
11 & 12 Geo. 6, c. 63.	The Agricultural Holdings Act, 1948.	Section twenty-six. 10
12, 13 & 14 Geo. 6, c. 93.	The National Health Service (Amendment) Act, 1949.	
12, 13 & 14 Geo. 6, c. 94.	The Criminal Justice (Scotland) Act, 1949.	In section sixty-four, in subsection (2), the words from "and any patient" to the end of the subsection, and subsection (3). 15 Section eight.
12, 13 & 14 Geo. 6, c. 100.	The Law Reform (Miscellaneous Provisions) Act, 1949.	20
15 & 16 Geo. 6. and 1 Eliz. 2.	The Magistrates' Court Act, 1952.	Section thirty.
3 & 4 Eliz. 2. c. 18.	The Army Act, 1955 ...	In section sixteen, in subsection (4), the words "an order under section sixteen of the Lunacy Act, 1890, or in Scotland". 25
3 & 4 Eliz. 2. c. 19.	The Air Force Act, 1955	In section sixteen, in subsection (4), the words "an order made under section sixteen of the Lunacy Act, 1890, or in Scotland". 30
4 & 5 Eliz. 2. c. 34.	The Criminal Justice Administration Act, 1956.	In section two, subsection (8). 35
4 & 5 Eliz. 2. c. 46.	The Administration of Justice Act, 1956.	In section ten, in subsection (1), paragraph (b). 40
4 & 5 Eliz. 2. c. 69.	The Sexual Offences Act, 1956.	Section eight. In the Second Schedule, paragraph 12.
6 & 7 Eliz. 2. c. 3.	The Yarmouth Naval Hospital Transfer Act, 1957.	The whole Act.
6 & 7 Eliz. 2. c. 40.	The Matrimonial Proceedings (Children) Act, 1958.	In section five, subsection (6). 45
6 & 7 Eliz. 2. c. 55.	The Local Government 1958.	In section forty-six, in subsection (1), paragraphs (d) and (e). In section fifty, in subsection (1), the words "or of that section as applied by section fifty-one of that Act" and the words "(or that subsection as applied by the said section fifty-one)". In the Eighth Schedule, paragraph 19. 50 55

PART II

A.D. 1959

8TH SCH.

—cont.

Session and Chapter	Short Title	Extent of Repeal
53 & 54 Vict. c. 5.	The Lunacy Act, 1890	Section eighty-six. In section eighty-seven, in subsection (1), the words "England or" and in subsection (2), the words "England and", the words "England or" in each place where they occur, and the words "as the case may be". In section eighty-eight, in subsection (1), the words "England or", and in subsection (2), the words "England and", the words "for any justice in England, and", the words "England or" and the words "as the case may be". Section one hundred and seven. In section one hundred and thirty-one, subsections (1) and (4), and in subsections (2) and (3), the words "England or" in each place where they occur.
11 & 12 Geo. 6. c. 43.	The Children Act, 1948	Section eight.



Mental Health

A

BILL

To repeal the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, and to make fresh provision with respect to the treatment and care of mentally disordered persons and with respect to their property and affairs; and for purposes connected with the matters aforesaid.

*Presented by Mr. Derek Walker-Smith,
supported by*

*The Prime Minister, Mr. Secretary Butler,
Mr. Attorney General, Mr. Renton
and Mr. Richard Thompson*

*Ordered, by The House of Commons,
to be Printed, 17 December 1958*

LONDON
PRINTED AND PUBLISHED BY
HER MAJESTY'S STATIONERY OFFICE
Price 6s. 6d. net
[Bill 53]

(38592)