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AN BILLE SLAINTE (SEIRBHISI MEABHAIRGHALAR), 1980
HEALTH (MENTAL SERVICES) BILL, 1980

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As initiated

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AN BILLE SLAINTE (SEIRBHISI MEABHAIRGHALAR), 1980
HEALTH (MENTAL SERVICES) BILL, 1980

BILL

entitled

AN ACT TO MAKE FURTHER AND BETTER PROVISION FOR THE REGULATION OF THE CARE AND TREATMENT OF PERSONS SUFFERING FROM MENTAL DISORDERS AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY

Short title, collective citation and construction.

1.—(1) This Act may be cited as the Health (Mental Services) Act, 1980.

(2) The Health Acts, 1947 to 1977, and this Act may be cited together as the Health Acts, 1947 to 1980.

(3) The Health Acts, 1947 to 1977, and this Act shall be construed together as one Act.

Commencement.

2.—This Act shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions of this Act.

Interpretation.

3.—In this Act, except where the context otherwise requires—

"authorised medical practitioner" means a registered medical practitioner holding an appointment or providing services as a consultant psychiatrist in a psychiatric centre;

" authorised officer " means an officer of a health board who is designated by the Minister to be an authorised officer;

" district psychiatric centre " means a hospital or unit designated as such a centre under *section 9*;

" medical officer in charge " means—

(*a*) in relation to a district psychiatric centre, the chief psychiatrist of the centre,

(*b*) in relation to a registered psychiatric centre, the chief medical officer of the centre;

" the Minister " means the Minister for Health;

" prescribed " means prescribed by regulations;

" psychiatric centre " means a district psychiatric centre or a registered psychiatric centre;

" registered medical practitioner " means a person whose name is entered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act, 1978;

" registered psychiatric centre " means a hospital, unit, institution or premises registered or deemed to be registered as such a centre under *section 10;*

" registered psychiatric home " has the meaning assigned by *section 12;*

" review board " means a psychiatric review board under *section 37;*

" special psychiatric centre " means a district psychiatric centre or part of any such centre designated as a special psychiatric centre under *section 30.*

Ordinary residence.

4.—For the purposes of this Act, a person of no fixed residence shall be regarded as being ordinarily resident at the place where he is for the time being.

Regulations.

5.—The Minister may make regulations in relation to any matter or thing referred to in this Act as prescribed or to be prescribed or as being the subject of regulations.

Laying of regulations before Oireachtas.

6.—Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which it has sat after the regulation is so laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Repeals.

7.—The enactments mentioned in the Schedule are hereby repealed to the extent specified in the third column of the Schedule.

Offences.

8.—(1) A person who does anything which is declared by *section 10* (*1*), *12* (*1*), *17* (*1*) or *44* (*2*) to be unlawful shall be guilty of an offence under this Act and shall be liable on conviction on indictment to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both the fine and the imprisonment.

(2) A Justice of the District Court shall have jurisdiction to try summarily an offence to which *subsection* (*1*) relates if—

(*a*) the Justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,

(*b*) the Director of Public Prosecutions consents, and

(*c*) the defendant (on being informed by the Justice of his right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

(3) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence to which *subsection* (*1*) relates as if, in lieu of the penalties provided for in subsection (3) of the said section, there were specified therein the penalties provided for in *subsection* (*2*) of this section, and the reference in subsection (2) (*a*) of the said section 13 to the penalties provided for in the said subsection (3) shall be construed and have effect accordingly.

(4) A person who fails to comply with a duty imposed on him by *section 10* (*3*), *12* (*5*) or *36* (*3*) or who obstructs or impedes any other person in the exercise of a power conferred on that other person under any section of this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

PART II

Registration and Supervision of Psychiatric Institutions

District psychiatric centres.

9.—(1) For the purpose of this Act the Minister may, at the request of a health board, designate as a district psychiatric centre any hospital or unit in a hospital provided and maintained or proposed to be provided and maintained by the health board and the area to be served by it.

(2) Every district mental hospital or psychiatric unit in any hospital maintained by a health board immediately before the commencement of this section shall be a district psychiatric centre.

(3) The Minister may, after consultation with a health board, cancel the designation of a hospital or unit as a district psychiatric centre.

(4) Every health board shall keep in a prescribed form a register of district psychiatric centres maintained by the board and shall make it available for inspection during office hours.

Registered psychiatric centres.

10.—(1) It shall not be lawful for any person other than a health board to operate any premises for the detention of persons requiring care and treatment for mental disorder or to describe or hold out any place as such unless it is approved and registered by the Minister in accordance with regulations made by the Minister under this section.

(2) A registered psychiatric centre may be a separate hospital or a unit in any hospital.

(3) It shall be the duty of the person maintaining a registered psychiatric centre to ensure that any directions issued or conditions prescribed by the Minister are complied with.

(4) Any institution registered in accordance with Part X or XI of the Mental Treatment Act, 1945, immediately before the commencement of this section shall be deemed to be registered under this section for the remainder of its period of registration under that Act.

(5) Any institution or premises approved by an approved order under section 158 of the Mental Treatment Act, 1945, in force immediately before the commencement of this section shall be deemed to be registered under this section subject to the conditions of the order for the period of 12 months beginning on such commencement.

(6) Any institution authorised by special Act or other enactment (including a charter) for the care, maintenance and treatment of persons suffering from mental disorder, not being the Central Mental Hospital, shall be deemed to be registered under this section.

Refusal and cancellation of registration.

11.—(1) The Minister may refuse to register or may cancel the registration of a psychiatric centre or part of a centre.

(2) In any case in which the Minister refuses to register or cancels the registration of a psychiatric centre or part of a centre he shall give the reasons for his refusal to register or for the cancellation of registration in writing to the person maintaining the centre or part of the centre.

(3) A person maintaining or proposing to maintain a psychiatric centre may appeal to the High Court from a refusal to register the centre and the court may, as it thinks proper, confirm the refusal or direct the Minister to register the centre.

(4) A person maintaining a registered psychiatric centre may appeal to the High Court against cancellation of the registration of the centre by the Minister and the court may, as it thinks proper, confirm the cancellation or direct the Minister to restore the registration.

(5) Where the registration of a psychiatric centre is cancelled or renewal of registration is refused, the Minister may, if he so thinks proper, permit the centre to be carried on for such period as he may direct (not being longer than 3 months from the refusal or cancellation of registration) for the purposes of effecting the discharge, removal and transfer of patients detained in the centre and it shall be lawful to carry on the centre pursuant to such permission.

Registered psychiatric homes.

12.—(1) It shall not be lawful for any person other than a health board to carry on in the functional area of the health board a home (in this Part referred to as a psychiatric home) for the care and treatment of persons suffering from mental disorder not being a psychiatric centre or to describe or hold out any such place as such a home unless it is approved and registered by the health board in accordance with regulations made by the Minister under this section.

(2) The health board may refuse to register or may cancel the registration of a psychiatric home.

(3) Where at the commencement of this section a person maintains a psychiatric home and, within one month after such commencement, he duly applies for registration of the home he may, notwithstanding *subsection* (*1*), continue to carry on the home unless and until registration is refused.

(4) In any case in which the health board refuses to register or cancels the registration of a psychiatric home it shall give the reason for the refusal to register or for the cancellation of registration in writing to the person maintaining the home.

(5) It shall be the duty of the person maintaining a psychiatric home to allow it to be inspected by a designated officer of the health board and to afford that officer such facilities and information as are required by him for that purpose.

(6) The person maintaining or proposing to maintain a psychiatric home may appeal to the Minister from—

(*a*) the removal of the home from the register, or

(*b*) in a case to which *subsection* (*2*) applies, a refusal to register the home,

and the Minister may, if he so thinks proper, direct the health board to restore the home to the register or register the home.

PART III

Admission and Discharge Procedures

Voluntary admission of patients.

13.—Nothing in this Part shall be read as preventing or discouraging a person from being admitted voluntarily for care and treatment in a psychiatric centre.

Disqualification of registered medical practitioner in relation to particular person.

14.—A registered medical practitioner shall, for the purposes of *sections 15*, *16*, and *19*, be disqualified in relation to a person—

(*a*) if the practitioner is the husband or wife, father, stepfather or father-in-law, mother, stepmother or mother-in-law, son, stepson or son-in-law, daughter, stepdaughter or daughter-in-law, brother, stepbrother or brother-in-law, sister, stepsister or sister-in-law or guardian or trustee of the person, or

(*b*) if the practitioner is employed in or by the psychiatric centre in which it is desired to have the person received or has charge of patients in the centre, or

(*c*) if the practitioner is a member of the governing body of or is the person carrying on or in charge of that psychiatric centre.

Application for recommendation for reception.

15.—(1) Where it is desired to have a person received and detained in a psychiatric centre application in the prescribed form may be made to a registered medical practitioner for a recommendation (in this Act referred to as a recommendation for reception) for the reception and detention of that person in that centre.

(2) An application for a recommendation for reception of a person may be made—

(*a*) by a parent or guardian of that person,

(*b*) by the spouse of that person ordinarily resident with that person, or by a brother or sister of that person being so resident and being over 18 years of age,

(*c*) by a son or daughter of that person being over 18 years of age,

(*d*) at the request of any such parent, guardian, spouse, brother, sister, son or daughter, by an authorised officer,

(*e*) under *section 16* by a member of the Garda Síochána,

(*f*) subject to *subsection* (*3*), by an authorised officer, or

(*g*) subject to *subsection* (*3*), by any other person.

(3) In the case of an application for reception under *subsection* (*2*) (*f*) or (*g*), the application shall contain a statement of the reasons why it is so made, of the connection of the applicant with the person to whom the application relates and of the circumstances in which the application is made.

Removal to Garda Síochána station of person believed to be suffering from severe mental disorder.

16.—(1) Where a member of the Garda Síochána is of opinion or is informed by an authorised officer that he is of opinion that it is necessary that a person believed to be suffering from severe mental disorder should, in the interest of the person's health or safety or for the protection of other persons or property, be placed forthwith under care and control, he may take the person into custody and remove him to a Garda Síochána station.

(2) Where a member of the Garda Síochána removes a person under this section, he shall apply forthwith in the prescribed form to a registered medical practitioner for a recommendation for reception of the person in a psychiatric centre.

(3) A member of the Garda Síochána shall for the purpose of this section have the right to enter without warrant any house or other premises where he believes the person referred to may be.

Place of detention.

17.—(1) Subject to *sections 29* and *31*, it shall not be lawful to detain a person under this Act elsewhere than in a psychiatric centre designated for the area in which he ordinarily resides.

(2) *Subsection* (*1*) shall not prevent the admission of a person as a temporary arrangement pending his transfer to a designated centre or the admission of a person as the private patient of an authorised medical practitioner.

Disclosure of previous application for recommendation for reception.

18.—Where, after refusal of an application, a further application for a recommendation for reception is made in relation to the same person within a period of 3 months after the date of the previous application, the applicant, so far as he is aware of the facts relating to the previous application and its refusal, shall state these facts to the registered medical practitioner to whom the application is made.

19.—(1) A recommendation for the reception of a person in a psychiatric centre shall require the written recommendation in the prescribed form of two registered medical practitioners in accordance with the following provisions of this section. Recommendation for reception.

(2) Where a registered medical practitioner receives an application for a recommendation for reception under this Part, he shall examine the person as soon as may be after receiving the application and may—

(*a*) make a recommendation for reception, or

(*b*) refuse to make a recommendation.

(3) Where a registered medical practitioner makes a recommendation for reception the applicant may within 7 days or, in a case to which *section 16* applies, 24 hours of the making of the recommendation, apply in the prescribed form to another registered medical practitioner for a recommendation for reception.

(4) On receipt of the application the other registered medical practitioner shall act in accordance with the provisions of *subsection (2)*.

(5) A recommendation for reception shall, in respect of each registered medical practitioner—

(*a*) state the date on which the registered medical practitioner has examined the person and shall be signed by the registered medical practitioner on the date of the examination,

(*b*) certify that he is satisfied—

(i) that the person is suffering from severe mental disorder, and

(ii) that detention and treatment in a psychiatric centre are necessary in the interest of the person's health or safety or for the protection of other persons or property, and

(iii) that the person is not prepared to accept or is not suitable for treatment otherwise than as a detained patient; and

(*c*) contain a statement of the facts upon which the registered medical practitioner has formed his opinion, distinguishing facts observed by himself and facts communicated by others.

(6) Where a registered medical practitioner proposes to make a recommendation he shall inform the person to whom it relates of his intention.

20.—A recommendation for reception shall not be made in respect of a district psychiatric centre or part of such centre where that centre or part is designated under *section 30* as a special psychiatric centre for the reception of any particular category of person. Exclusion of special psychiatric centre.

21.—(1) Where a registered medical practitioner making a recommendation for reception of a person certifies that an escort is required to ensure that the person is safely brought to a psychiatric centre, the medical officer in charge of the centre shall arrange for the escort of the patient. Escort.

(2) The medical officer in charge of a psychiatric centre to which it is proposed to convey a person, to whom a recommendation for reception relates, may if he thinks it necessary request the assistance of the Garda Síochána in arranging such an escort.

(3) The Garda Síochána shall, if so requested, arrange for the escort.

Effect of recommendation for reception.

22.—(1) Where a recommendation for reception is made, the applicant for the recommendation or any person authorised by him or, in the case of a recommendation for reception made pursuant to *section 16*, any member of the Garda Síochána or an escort authorised under *section 21* may, subject to this section, bring the person to whom the recommendation relates to a psychiatric centre.

(2) Where the person is not brought to a centre within 7 days after the day on which the recommendation is made, the recommendation shall, subject to *subsection (3)*, cease to have effect.

(3) Where, within the period of 7 days, one of the medical practitioners making the recommendation certifies that the person will not be fit to be removed until after the expiration of that period the recommendation shall not cease to have effect on the expiration of that period but, if the person is not brought within a further 7 days to a psychiatric centre, the recommendation shall then cease to have effect.

Reception and detention of person.

23.—(1) Where a person is brought to a psychiatric centre in accordance with the provisions of this Act the person shall be received in the psychiatric centre by a medical officer of the centre who shall examine the person as soon as may be after the arrival of the person at the centre.

(2) For the purposes of examination and assessment by an authorised medical practitioner or practitioners the medical officer who examined the person may make an order in the prescribed form detaining the person in the centre for a period not exceeding 48 hours after his arrival.

(3) Within the period specified at *subsection (2)* an authorised medical practitioner of the psychiatric centre shall either—

(*a*) make an order in the prescribed form (in this Part referred to as a reception order) that the person shall be received, detained and treated in the centre, or

(*b*) discharge the person.

Form of reception order.

24.—(1) A reception order shall be in the prescribed form and shall provide for the reception, detention and treatment of the person for a period not exceeding 28 days from the date of his admission to the specified psychiatric centre.

(2) The period of validity of a reception order may, in accordance with this section, be extended from time to time by order (in this section referred to as an extension order) signed by two authorised medical practitioners each of whom has separately examined the person and every extension order shall be deemed to form part of the reception order to which it relates.

(3) An extension order shall be made before the expiration of the current period of detention of the person and shall be for a period—

(*a*) in the case of a first extension, not exceeding 3 months from the date of admission of the person to the centre,

(*b*) in any other case, not exceeding 12 months from the expiration of the current period of detention.

(4) Where a reception order or extension order is made in respect of a person in any centre the medical officer in charge of the centre shall forthwith inform the person and the applicant for the reception of the person of that fact, of the reason for the extension and of his right to a review under *section 38*.

Effect of reception order.

25.—Where a reception order is made the medical officer in charge of the psychiatric centre to which the order relates and the officers and servants of the centre shall receive the person to whom the order applies and detain him subject to the provisions of this Act.

Boarding-out.

26.—(1) A health board may, subject to any regulations which the Minister may make in that behalf, make and carry out an arrangement for the boarding in a private dwelling (whether within or outside its functional area) of a person undergoing or requiring care at a psychiatric centre, psychiatric home or centre for mentally handicapped persons.

(2) The regulations may, in particular, provide for a right of inspection of the dwelling in which persons are boarded and for the making of payments to persons with whom they are boarded.

Return of person absent without leave.

27.—(1) Where a person detained in a psychiatric centre or other place under a reception order (adapted, where appropriate, by virtue of *section 29* (*5*)) absents himself without permission he may, during the period of currency of the order, be brought back to that centre or place by persons employed at that centre or place or by a member of the Garda Síochána.

(2) A member of the Garda Síochána shall for the purpose of this section have the right to enter without warrant any house or other premises where he believes the person referred to may be.

Permitted absence.

28.—(1) The medical officer in charge of a psychiatric centre or the authorised medical practitioner with specific responsibility for the care of a particular person detained in the centre may permit the person to be absent from the centre for a period or extended period amounting to less than the unexpired number of days provided for in the current detention order.

(2) Where a person absent under this section does not return on the expiration of the period or the extended period during which he is permitted to be absent and a certificate of any authorised medical practitioner certifying that his detention is no longer necessary is not furnished to the medical officer in charge of the psychiatric centre, he shall be deemed to have absented himself without permission and *section 27* shall apply accordingly.

(3) Where a person is permitted to be absent from a centre under this section the permission may be withdrawn at any time by the medical officer in charge of the centre or the authorised medical practitioner with specific responsibility for the care of that person and if the person, on being notified of the withdrawal, does not immediately return to the centre he shall be regarded as having absented himself without permission and *section 27* shall apply accordingly.

Transfers.

29.—(1) A person detained in a psychiatric centre may, in his own interest, be transferred to another psychiatric centre in accordance with this section after consultation with the person and, if available, with the applicant for the reception of the person in the centre.

(2) (*a*) A transfer from a district psychiatric centre shall be made by the health board.

(*b*) A transfer from a registered psychiatric centre shall be made by the medical officer in charge of the centre with, in the case of a person maintained in the centre at the expense of a health board, the consent of that board.

(*c*) A transfer to a district psychiatric centre in the functional area of another health board shall be made only with the consent of that board.

(*d*) A transfer to a registered psychiatric centre shall be made only with the consent of the medical officer in charge of the centre.

(3) (*a*) Where the medical officer in charge of a psychiatric centre is of opinion that it is necessary or would be for the benefit of the health of a person detained in the centre that he should be temporarily transferred for treatment and care in another centre or in a place other than a psychiatric centre he may arrange for the transfer of the person accordingly.

(*b*) The person may be transferred to and detained in that centre or place for as long as, in the opinion of the medical officer in charge of that centre or place, it is necessary and, subject to the provisions of this Part, he may afterwards be taken back to and detained in the psychiatric centre in which he was previously detained.

(4) A person shall not be transferred under this section to a special psychiatric centre.

(5) Where a person is transferred under this section, the reception order under which he was detained shall have effect as if it specified the centre or place to which he is transferred as a centre or place in which he is to be detained.

Special psychiatric centres.

30.—(1) The Minister may designate a district psychiatric centre or part of any such centre as a special psychiatric centre for the transfer under *section 31* of a specified category or categories of patient and may discontinue any such designation.

(2) For the purposes of this Act, the Central Mental Hospital shall be a special psychiatric centre.

Transfer to special psychiatric centre.

31.—(1) Where a person is detained under this Act in a district or registered psychiatric centre and, in the opinion of the medical officer in charge of the centre, his mental condition is such that he should be transferred to a special psychiatric centre, he may make a recommendation to the appropriate review board for such transfer.

(2) The review board may, if it so thinks fit, direct the transfer of the person to a special psychiatric centre.

(3) Before the person is transferred, the review board shall give at least 7 days notice of its direction to that person and to—

(*a*) the applicant for the recommendation for reception in pursuance of which he is detained, where the application was made under *paragraph* (*a*), (*b*), (*c*), (*d*) or (*g*) of *section 15* (*2*),

(*b*) the committee, if any, of the person.

(4) If it is not found practicable to give notice of the direction to the applicant referred to in *subsection* (*3*) (*a*), the notice shall be given to some other relative within the categories mentioned in *section 15* (*2*).

(5) (*a*) The person to be transferred, his committee or next friend or the applicant for the recommendation for reception may within the period of 7 days mentioned in *subsection* (*3*) or such further period as may be provided for by rules of court, apply to the High Court to have the direction of the review board discharged and the person shall not be transferred to the special psychiatric centre pending the appeal.

(*b*) If the High Court, having considered the application, such evidence as may be adduced and any representations made by or on behalf of the person detained, is satisfied that it would be proper to do so, the court may confirm the direction.

(*c*) If the court is not so satisfied, it shall discharge the direction.

(6) On being transferred under this section, the person shall be detained in the special psychiatric centre until, under this section, he is sent back to the centre from which he was transferred or is discharged.

(7) A person transferred to a special psychiatric centre under this section shall be regarded as detained under the reception order made in respect of him under this Act.

(8) The review board which directed the transfer of a person under *subsection* (*2*) may direct that he be sent back to the psychiatric centre from which he was transferred or direct his transfer to another psychiatric centre with the agreement of the person maintaining that centre and his detention under the direction shall be regarded as detention under the reception order.

(9) Where the medical officer in charge of a special psychiatric centre with the consent of the review board which directed the transfer of a person under *subsection* (*2*) certifies that the detention and treatment of that person are no longer necessary, the medical officer in charge of the centre shall discharge that person.

(10) (*a*) Where the medical officer in charge of a special psychiatric centre is of opinion that it is necessary or would be for the benefit of the health of a person detained in the centre that he should be temporarily transferred for treatment and care in another centre or place, he may arrange for the transfer of the person accordingly.

(*b*) The person may be transferred to and detained in that centre or place for so long as, in the opinion of the medical officer in charge of the centre or place, it is

necessary and, subject to the provisions of this section, he may afterwards be taken back to and detained in the special psychiatric centre in which he was previously detained.

Discharge.

32.—Where the medical officer in charge of a psychiatric centre is satisfied that detention and treatment in the centre are no longer necessary in the interests of a person's health or safety or for the protection of other persons or property he shall discharge the person.

PART IV

Safeguards for Patients

Information as to persons detained.

33.—(1) Any person may apply to a health board for information as to whether a particular person is detained in a special or district psychiatric centre in the functional area of the health board and, if he is so detained, as to the name and address of the centre and the name of the medical officer in charge of it.

(2) Any person may apply to the medical officer in charge of a district, special or registered psychiatric centre for—

(*a*) information as to whether a particular person is detained in the centre,

(*b*) a copy of the reception order under which a particular person is detained,

(*c*) the name of the applicant for the order or for a recommendation for the reception of a particular person,

(*d*) the name of any registered medical practitioner who made a recommendation or signed a certificate in relation to that person.

(3) An application under this section shall be granted if the health board or the medical officer, as the case may be, is satisfied that the application is made in good faith in the interest of the person in respect of whom it is made and that it would be in accord with that person's interest to grant it.

(4) Where the application is refused the health board or medical officer shall so inform the applicant.

(5) A person whose application is refused may apply to the judge of the Circuit Court for the circuit where the health board has its office or the centre is located, as the case may be, for an order directing the health board or the medical officer in charge of the centre to furnish the information and documents required and the health board or medical officer shall comply forthwith with any such order.

Furnishing of documents to detained person.

34.—The medical officer in charge of the special, district or registered psychiatric centre in which a person is detained shall, on request, give him a copy of the reception order under which he is detained and a copy of the recommendation for his reception.

Forwarding of certain letters.

35.—Any letter addressed by a person in a special, district or registered psychiatric centre to the Minister, the President of the High Court, the Registrar of Wards of Court, a health board or a review board under this Act shall be delivered or posted unopened.

36.—(1) A designated medical officer of the Minister shall visit and inspect once in each year every special, district and registered psychiatric centre and shall report to the Minister on the visit. **Inspection of centres and homes.**

(2) Any officer of the Minister shall be entitled to visit and inspect any such centre or a psychiatric home as and when authorised by the Minister to do so.

(3) It shall be the duty of the person maintaining a centre or home to afford to the person making the inspection such facilities and information as he requires for the purposes of his inspection.

37.—(1) There shall be a psychiatric review board or boards for each health board area. **Psychiatric review boards.**

(2) A review board shall consist of three persons to be appointed by the Minister one of whom shall be a person who is or has been a barrister or solicitor who has practised his profession for at least 7 years, one an authorised medical practitioner and one a person who is not a member of the legal or medical profession.

(3) The Minister shall nominate a member of a review board to be the chairman of the board.

(4) In the event of any member of the review board being unable to act or being debarred under *subsection* (*7*) from acting for a particular sitting the chairman shall replace him by an appropriate person from a panel of persons to be appointed by the Minister.

(5) The chairman of a review board shall nominate another member of the board to be chairman for a particular sitting of the board in the event of the former being unable to act.

(6) The duration of membership of a review board or of a review board panel shall be 3 years unless the member dies, resigns or is removed by the Minister but a member may be reappointed to a board or to a panel.

(7) In relation to the review of any particular case a member of a review board shall not be a relative of the patient, within a category described in *section 14* (*a*), have a professional relationship with him or be a member of the staff of the centre in which the patient is detained.

(8) The Minister may pay to members of a review board such remuneration and expenses as he may determine after consultation with the Minister for the Public Service.

(9) A health board shall make available to a review board the necessary staff, accommodation and other facilities to enable the review board to perform its functions under this Act.

38.—(1) An application may be made to a review board to examine the propriety of the detention of any person detained in a special, district or registered psychiatric centre or the conditions applying to a person discharged conditionally. **Review of detention.**

(2) The application shall be granted where it is made by the person detained or by—

(*a*) a parent or guardian of that person,

(*b*) the spouse of that person, or a brother or sister of that person being over 18 years of age,

(*c*) a son or daughter of that person, being over 18 years of age.

(3) Where the Minister, the President of the High Court or the Registrar of Wards of Court makes the application, it shall be granted.

(4) Where some other person makes the application, it may be granted or refused at the discretion of the board.

(5) Where an application is granted the examination shall take place within one month.

(6) The manner of making applications and the procedure of a review board, including the making of arrangements by it for an independent medical examination of the patient, may be prescribed.

Decision of review board as to person in detention.

39.—(1) Where a review board carries out an examination under *section 38* of a person who is in detention it shall, as it thinks proper—

(*a*) decide that the person is properly detained, or

(*b*) direct the discharge of the person either unconditionally or subject to conditions in regard to his continuing care or supervision.

(2) Before directing the discharge of a person a review board shall satisfy itself that detention and treatment in the centre are no longer necessary in the interests of the person's health or safety or for the protection of other persons or property.

(3) Where the review board directs the discharge of the person the medical officer in charge of the centre shall discharge him forthwith, subject to any conditions specified by the review board.

(4) Where a review board, following examination, agrees that a person is properly detained, an application for a further examination of that person shall not be accepted by the board within a period of 6 months from the date of the previous examination.

(5) Where a review board, following examination, decides that a person is properly detained, the applicant may within one month of being informed of the decision of the board, appeal to the Minister against the decision.

(6) Where an appeal is made to the Minister under *subsection* (*5*) the Minister shall designate a medical officer of the Minister or an authorised medical practitioner to examine the person and to report to him on the propriety of the continued detention of the person. The Minister, having examined the report, shall, as he thinks proper, refuse the appeal or direct the discharge of the person conditionally or unconditionally and the medical officer in charge of the centre concerned shall discharge him in accordance with the direction of the Minister.

(7) A review board shall for the purposes of an examination under this section have the powers, rights and privileges vested in the High Court or a judge thereof on the hearing of an action in respect of—

(*a*) the enforcement of the attendance of witnesses and their examination on oath or otherwise, and

(*b*) the compelling of the production of documents,

and a summons signed by the chairman of the review board or by such other member of the board as may be authorised by the board for that purpose may be substituted for and shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(8) A review board may decide any question by any two of its members.

Review of conditional discharge.

40.—(1) Where a review board carries out an examination under *section 38* of a person who has been discharged conditionally, it shall, as it thinks proper—

(*a*) confirm the conditions applying to him,

(*b*) vary or cancel the conditions, or

(*c*) cancel the direction for his discharge and make an order in the prescribed form directing that he be received and detained for treatment in a psychiatric centre (not being a special psychiatric centre) in accordance with the provisions of this section.

(2) A direction under *subsection* (*1*) (*c*) shall have effect as if it were a reception order.

(3) (*a*) For the purpose of bringing and escorting the person to whom the reception order relates to the appropriate psychiatric centre the order shall be deemed to be a recommendation for his reception at the centre.

(*b*) *Sections 21* and *22* shall apply accordingly subject to the modification that a certificate under *section 21* (relating to an escort) may be given by the review board.

(4) Where a review board, following examination, confirms the conditions relating to a person, an application for a further examination of that person shall not be accepted by the board within a period of 6 months from the date of the previous examination.

(5) Where a review board, following examination, orders the detention of a person that person or the applicant for the examination may, within one month of being informed of the decision of the board, appeal to the Minister against the order.

(6) Where an appeal is made to the Minister under *subsection* (*5*) the Minister shall designate a medical officer of the Minister or an authorised medical practitioner to examine the person and to report to him on the continued detention of the person. The Minister, having

examined the report shall, as he thinks proper, refuse the appeal or direct the discharge of the person conditionally or unconditionally and the medical officer in charge of the centre concerned shall discharge him in accordance with the direction of the Minister.

Review of long-term detention.

41.—(1) Where a person has been in detention under this Act in a district, special or registered psychiatric centre for a period of 2 years the medical officer in charge of the centre shall, if the person's detention has not been reviewed by a review board during the preceding 6 months, furnish a report on him to the appropriate review board within one month and the board shall review the propriety of his further detention and shall, as it thinks proper—

(*a*) decide that the person is properly detained, or

(*b*) direct that he be discharged unconditionally or subject to conditions in regard to his continuing care or supervision.

(2) Before directing the discharge of a person, the board shall satisfy itself that detention and treatment in the centre are no longer necessary in the interest of the person's health or safety or for the protection of other persons or property.

(3) Where the review board directs the discharge of a person, the medical officer in charge of the centre shall discharge him forthwith, subject to any conditions specified by the review board.

(4) In respect of a person whose detention is continued, the authorised medical officer with specific responsibility for the care of the person in the centre shall furnish a report on the person to the review board at the end of each subsequent two-year period of detention and the board shall act in accordance with the provisions of this section.

(5) Where a review board under this section examines the propriety of the detention of a person and decides that he is properly detained, that person, or—

(*a*) the parent or guardian of that person,

(*b*) the spouse of that person, or

(*c*) a brother or sister of that person being over 18 years of age, or

(*d*) a son or daughter of that person being over 18 years of age,

may, within one month of being informed of the decision of the board, appeal to the Minister against the decision.

(6) Where an appeal is made to the Minister under *subsection* (5) the Minister shall designate a medical officer of the Minister or an authorised medical practitioner to examine the person concerned and to report to him on the propriety of his continued detention. The Minister, having examined the report, shall, as he thinks proper, refuse the appeal or direct the discharge of the person conditionally or unconditionally and the medical officer in charge of the centre shall discharge him in accordance with the direction of the Minister.

(7) In relation to persons who, at the commencement of this section, have been in detention for two years or more, the Minister may by order extend the period after which a review board may be required to examine the propriety of their detention and an order under this subsection may be made either generally or in respect of a particular centre or a particular person.

Representation.

42.—Where a review board carries out an examination under this Act, the person whose detention is being examined shall have a right to be represented by another person during the board's examination.

Oral hearings.

43.—A review board may determine an application without an oral hearing where such a hearing is not requested by the applicant or where it appears to the board that such a hearing might be harmful to the health of the person concerned.

Consent for certain therapeutic procedures.

44.—(1) The Medical Council may, with the consent of the Minister, make rules—

(*a*) in regard to the application to any person of any specified therapeutic procedure for the treatment of mental illness, and

(*b*) specifying the conditions to be complied with and the precautions to be taken to safeguard the rights and well-being of patients to whom the procedure is applied.

(2) It shall not be lawful to apply or cause to be applied any procedure so specified unless the person has given his consent in the manner provided for in the rules or, notwithstanding the provisions of section 4 of the Health Act, 1953, where the person has not the mental capacity to give his consent, consent is given by a person specified in the rules.

Report of certain matters to Minister.

45.—Immediately upon the occurrence in a district, special or registered psychiatric centre of any of the following matters the medical officer in charge of the centre shall give a report thereon to the Minister and to the chief executive officer of the health board for the area where the centre is situated—

(*a*) an injury, other than a minor injury, to a person undergoing care and treatment in the centre or the death of any such person otherwise than from natural causes,

(*b*) an alleged assault upon any such person,

(*c*) any other matter of serious importance to the welfare of such persons.

PART V

MISCELLANEOUS

Leave of the High Court for certain proceedings.

46.—(1) No civil proceedings shall be instituted in respect of an act purporting to have been done in pursuance of this Act save by leave of the High Court and such leave shall not be granted unless the High Court is satisfied that there are substantial grounds for contending that the person against whom the proceedings are to be brought acted in bad faith or without reasonable care.

(2) Notice of an application for leave of the High Court under *subsection (1)* shall be given to the person against whom it is proposed to institute the proceedings and that person shall be entitled to be heard against the application.

(3) Where proceedings are, by leave granted in pursuance of *subsection (1)*, instituted in respect of an act purporting to have been done in pursuance of this Act, the court shall not determine the proceedings in favour of the plaintiff unless it is satisfied that the defendant acted in bad faith or without reasonable care.

Saving of court jurisdiction.

47.—Nothing in this Act shall affect any jurisdiction exercisable immediately before the commencement of this section by a Judge of the High Court or a Judge of the Circuit Court in connection with the care and protection of persons and the estates of persons found to be mentally disordered.

Fee for registered medical practitioner carrying out medical examination.

48.—Where a registered medical practitioner carries out a medical examination under *section 19* of a person with full or limited eligibility for health services under the Health Act, 1970, the health board shall pay to the registered medical practitioner a fee of such amount as the Minister may authorise following consultation with the Minister for the Public Service.

Transitional.

49.—(1) Where, immediately before the commencement of this section, a person was, under the Mental Treatment Acts, 1945 to 1966, detained as a temporary patient or a person of unsound mind, he shall be regarded as having been received and detained under this Act in the psychiatric centre in which he is detained at such commencement.

(2) (*a*) In the case of a temporary patient, his treatment and detention shall be regarded as authorised for a period not exceeding 3 months after the commencement of this section.

(*b*) In the case of a person of unsound mind, his treatment and detention shall be regarded as authorised for a period not exceeding 12 months after such commencement.

(3) Where, immediately before the commencement of this section, a person was a voluntary patient under Part XV of the Mental Treatment Act, 1945, he shall be regarded as a person admitted voluntarily for care and treatment in the psychiatric centre in which he is a patient at such commencement.

50.—(1) Nothing in this Act shall affect any power exercisable immediately before the commencement of this section under any enactment specified in *subsection* (2) and no power, restriction or prohibition contained in this Act shall apply in relation to a person detained under any such specified enactment. Saver for specified enactments.

(2) The specified enactments are—

(*a*) sections 17 and 18 of the Lunacy (Ireland) Act, 1821;

(*b*) sections 2 and 3 of the Criminal Lunatics (Ireland) Act, 1838;

(*c*) section 12 of the Central Criminal Lunatic Asylum (Ireland) Act, 1845;

(*d*) sections 12 and 13 of the Lunatic Asylums (Ireland) Act, 1875;

(*e*) section 91 of the Army Act, 1881;

(*f*) section 2 of the Trial of Lunatics Act, 1883;

(*g*) section 17 of the Criminal Justice Administration Act, 1914;

(*h*) sections 202 and 203 of the Defence Act, 1954.

SCHEDULE

Repeal of Enactments

Number and Year	Short Title	Extent of Repeal
No. 19 of 1945	Mental Treatment Act, 1945.	The whole Act.
No. 35 of 1953	Mental Treatment Act, 1953.	The whole Act.
No. 4 of 1961	Mental Treatment (Detention in Approved Institutions) Act, 1961.	The whole Act.
No. 7 of 1961	Mental Treatment Act, 1961.	The whole Act.

AN BILLE SLAINTE (SEIRBHISI MEABHAIRGHALAR), 1980

BILLE

(*mar a tionscnaíodh*)

dá ngairtear

Acht do dhéanamh socrú breise agus feabhsaithe maidir le cúram agus cóireáil daoine ar a bhfuil éalang mheabhrach a rialáil agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Sláinte a thíolaic,
23 *Meitheamh*, 1980

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Díolta Foilseachán Rialtais An Stuara, Árd Oifig an Phoist, Baile Átha Cliath, nó trí aon díoltóir leabhar.

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HEALTH (MENTAL SERVICES) BILL, 1980

BILL

(*as initiated*)

entitled

An Act to make further and better provision for the regulation of the care and treatment of persons suffering from mental disorders and to provide for related matters.

Presented by the Minister for Health,
23*rd June*, 1980

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