

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, 12 March 1992

MENTAL HEALTH BILL

Proposed Amendments

Hon. SIMON UPTON, in Committee, to move the following amendments:

Clause 1: To omit subclause (2) (all the words in lines 13 and 14 on page 3), and substitute the following subclause:

(2) This Act shall come into force on the 1st day of November 1992.

Clause 2: To omit the definition of the term "clinician" (all the words in lines 19 to 21 on page 3), and substitute the following definition:

"Clinician" means a person who holds a professional qualification relevant to the assessment, treatment, and care of patients with mental disorder:

To omit from lines 17 and 18 on page 5 the words "who has attained the age of 17 years".

To omit the definition of the term "mental disorder" that appears in lines 29 to 40 on page 5.

To insert, after line 13 on page 6, the following definition:

"Primary caregiver", in relation to any patient, means the friend of the patient or the member of the patient's family group or whanau who is most evidently and directly concerned with the oversight of the patient's care and welfare:

To omit the definition of the term "responsible clinician" (which appears in lines 28 to 30 on page 6), and substitute the following definition:

"Responsible clinician", in relation to a patient, means the clinician in charge of the treatment of that patient:

To omit the definition of the term "responsible medical officer" (which appears in lines 31 to 33 on page 6).

To insert, after line 4 on page 7, the following definition:

"Service" means a service for the treatment and rehabilitation of persons with mental disorder, being a service provided by, or managed by,—

(i) A board; or

(ii) A private hospital licensed as a psychiatric institution pursuant to Part V of the Hospitals Act 1957; or

(iii) An institution that was, immediately before the commencement of this Act, a licensed institution under section 9 of the Mental Health Act 1969:

To omit from line 16 on page 7 the expression "1987", and substitute the expression "1988".

Clause 4c: To omit this clause (all the words in lines 25 to 32 on page 8), and substitute the following clause:

4c. Obligation to assign patient to responsible clinician—For the purposes of this Act, the Director of Area Mental Health Services shall ensure that at all times there is assigned in respect of each patient a responsible clinician, who shall be—

- (a) A psychiatrist approved by the Director of Area Mental Health Services; or
- (b) Some other registered health professional who, in the opinion of the Director of Area Mental Health Services, has undergone training in, and is competent in, the assessment, treatment, and care, of persons with mental disorder.

Clause 6: To omit paragraph (c) of subclause (2) (all the words in lines 5 to 10 on page 11), and substitute the following paragraphs:

- (c) Giving to the proposed patient a written notice—
 - (i) Requiring the proposed patient to attend at the specified place and time for the purposes of the assessment examination; and
 - (ii) Explaining the purpose of the assessment examination; and
 - (iii) Stating the name of the person who is to conduct the assessment examination:
- (ca) Ensuring that the purpose of the assessment examination and the requirements of the notice given under paragraph (c) of this subsection are explained to the proposed patient in the presence of a member of the proposed patient's family, or a caregiver in relation to the proposed patient or other person concerned with the welfare of the proposed patient:

Clause 7: To insert, after line 12 on page 13, the following subparagraph:

- (iv) The patient's primary caregiver:

Clause 8: To omit from line 11 on page 14 the words "medical officer", and substitute the word "clinician".

To omit from line 13 on page 14 the word "officer", and substitute the word "clinician".

To omit from line 19 on page 14 the words "medical officer", and substitute the word "clinician".

To omit from line 21 on page 14 the word "officer", and substitute the word "clinician".

To omit from line 3 on page 15 the words "medical officer", and substitute the word "clinician".

To omit from line 4 on page 15 the word "officer", and substitute the word "clinician".

Clause 9: To omit from line 15 on page 15 the words "medical officer", and substitute the word "clinician".

To omit from line 32 on page 15 the words "medical officer", and substitute the word "clinician".

To omit from line 19 on page 16 the words "medical officer", and substitute the word "clinician".

To omit from line 20 on page 16 the word "officer", and substitute the word "clinician".

To omit from line 25 on page 16 the words "medical officer", and substitute the word "clinician".

To omit from line 29 on page 16 the word "officer", and substitute the word "clinician".

To omit from line 2 on page 17 the words "medical officer's", and substitute the word "clinician's".

To omit from line 3 on page 17 the word "officer", and substitute the word "clinician".

To insert, after line 8 on page 17, the following paragraph:

(ca) The patient's primary caregiver:

To omit from line 16 on page 17 the word "medical officer", and substitute the word "clinician".

Clause 11: To omit from line 11 on page 20 the words "medical officer's", and substitute the word "clinician's".

To omit from line 12 on page 20 the word "officer", and substitute the word "clinician".

To omit from line 20 on page 20 the words "medical officer", and substitute the word "clinician".

To omit from line 25 on page 20 the words "medical officer", and substitute the word "clinician".

To omit from line 27 on page 20 the word "officer", and substitute the word "clinician".

To omit from line 33 on page 20 the words "medical officer", and substitute the word "clinician".

To omit from line 35 on page 20 the word "officer", and substitute the word "clinician".

To omit from line 1 on page 21 the words "medical officer", and substitute the word "clinician".

To omit from line 3 on page 21 the word "officer", and substitute the word "clinician".

To omit from line 22 on page 21 the words "medical officer", and substitute the word "clinician".

To omit from line 24 on page 21 the word "officer", and substitute the word "clinician".

Clause 12: To omit from line 28 on page 21 the words "medical officer", and substitute the word "clinician".

To omit from line 34 on page 21 the words "medical officer", and substitute the word "clinician".

To omit from line 18 on page 22 the words "medical officer", and substitute the word "clinician".

To omit from line 19 on page 22 the word "officer", and substitute the word "clinician".

To omit from line 29 on page 22 the words "medical officer", and substitute the word "clinician".

To omit from line 31 on page 22 the word "officer", and substitute the word "clinician".

To insert, after line 5 on page 23, the following subparagraph:

(iv) The patient's primary caregiver:

To omit from line 20 on page 23 the words "medical officer", and substitute the word "clinician".

Clause 13: To omit from line 35 on page 23 the words "medical officer", and substitute the word "clinician".

Clause 14: To omit from line 32 on page 25 the words “medical officer”, and substitute the word “clinician”.

Clause 15: To omit from line 29 on page 27 the words “medical officer”, and substitute the word “clinician”.

Clause 16: To omit subclause (4) (all the words in lines 23 and 24 on page 28), and substitute the following subclause:

- (4) The Court may exercise, at any stage of the hearing,—
 - (a) The discretion conferred on it, by subsection (2) of this section, to excuse a patient; or
 - (b) The discretion conferred on it, by subsection (3) of this section, to exclude a patient.

Clause 20: To omit from lines 5 and 6 on page 31 the words “the Consolidated Account from”, and substitute the word “public”.

Clause 27: To omit from line 20 on page 34 the words “medical officer”, and substitute the word “clinician”.

To omit from line 21 on page 34 the word “officer”, and substitute the word “clinician”.

Clause 27A: To omit from line 35 on page 34 the words “medical officer”, and substitute the word “clinician”.

To omit from line 38 on page 34 the word “officer”, and substitute the word “clinician”.

To omit from line 2 on page 35 the words “medical officer”, and substitute the word “clinician”.

To omit from line 7 on page 35 the words “medical officer”, and substitute the word “clinician”.

Clause 29: To omit from line 16 on page 36 the words “medical officer”, and substitute the word “clinician”.

To omit from line 18 on page 36 the words “medical officer”, and substitute the word “clinician”.

To omit from line 20 on page 36 the word “officer”, and substitute the word “clinician”.

Clause 30: To omit from line 37 on page 36 the words “medical officer”, and substitute the word “clinician”.

To omit from line 1 on page 37 the word “officer”, and substitute the word “clinician”.

To omit from line 3 on page 37 the words “medical officer”, and substitute the word “clinician”.

Clause 31B: To omit the word “shall” from line 18 on page 38, and substitute the word “may”.

Clause 31C: To omit from line 22 on page 39 the words “the responsible medical officer”.

Clauses 31F and 31G: To insert, after line 2 on page 41, the following heading and clauses:

Notice of Admission, Discharge, and Transfer of Special Patients and Restricted Patients

31F. Notice of admission—(1) Where a special patient or a restricted patient is admitted to a hospital, the person in charge of that hospital shall, within 14 days after the admission of the patient, send to the Director—

- (a) Notice of the admission;
- (b) A copy of the order on which the patient was admitted;
- (c) A copy of every medical certificate and other document that accompanied the order:

- (d) A statement of both the mental condition and the physical condition of the patient at the time of the patient's admission.

31c. Notice of discharge, transfer, etc.—Within 14 days after the discharge or transfer of any special patient or restricted patient from a hospital, or the absence on leave, cancellation of leave, return from leave, escape or retaking of any special patient or restricted patient who had been admitted to a hospital, the person in charge of the hospital shall send a notice thereof to the Director.

Clause 33: To omit from line 10 on page 44 the words “medical officer”, and substitute the word “clinician”.

To omit paragraph (f) of subclause (3) (all the words in lines 16 to 19 on page 44), and substitute the following paragraph:

- (f) The Court shall not make a community treatment order in respect of the person.

Clause 38AA: To insert, after line 18 on page 49, the following clause:

38AA. Power to direct temporary return to hospital of special patient—(1) Where any patient is, under section 38 of this Act, on leave of absence from a hospital, the Director of Area Mental Health Services may, if he or she is satisfied that it is necessary, in the interests of the safety of that patient or the public, direct that that patient be admitted or re-admitted to a specified hospital.

(2) Where a direction is given under subsection (1) of this section, the patient may, notwithstanding the leave granted under section 38 (1) of this Act, be taken to the specified hospital by the Director, or by the Director of Area Mental Health Services, or by a duly authorised officer, or by any member of the Police, or by any person to whom the charge of the patient has been entrusted during the period of leave.

(3) If the specified hospital is not the one from which the patient was on leave, the patient shall, subject to subsections (4) and (5) of this section, be received and detained there as if he or she had been transferred to that hospital pursuant to section 37 of this Act.

(4) Where a person is admitted or re-admitted to a hospital pursuant to a direction under subsection (1) of this section, that person shall not, unless his or her leave is cancelled under section 38 (3) of this Act, be detained in that hospital for more than 72 hours.

(5) If the leave of a patient who is admitted or re-admitted to a hospital pursuant to a direction under subsection (1) of this section is not cancelled before the expiration of his or her period of detention pursuant to that direction, that patient shall, at the end of his or her period of detention pursuant to that direction, be again released on leave subject to the conditions imposed by the Minister under section 38 (1) of this Act.

Clause 39B: To omit from lines 12 and 13 on page 51 the words “the High Court”, and substitute the words “a District Court”.

To omit from line 17 on page 51 the words “the High”, and substitute the words “a District”.

Clause 41: To omit from line 4 on page 52 the words “medical officer”, and substitute the word “clinician”.

Clause 42: To omit from lines 9 and 10 on page 52 the words “psychiatric illness”, and substitute the words “mental disorder”.

To omit from line 10 on page 52 the words “medical officer”, and substitute the word “clinician”.

To omit from line 19 on page 52 the words “medical officer”, and substitute the word “clinician”.

To omit from line 22 on page 52 the words “medical officer”, and substitute the word “clinician”.

To omit from line 28 on page 52 the words “medical officer”, and substitute the word “clinician”.

To omit from line 2 on page 53 the words “medical officer”, and substitute the word “clinician”.

Clause 43: To omit from line 5 on page 54 the words “psychiatric illness”, and substitute the words “mental disorder”.

To omit from line 11 on page 54 the words “medical officer”, and substitute the word “clinician”.

Clause 43A: To omit from line 15 on page 54 the words “psychiatric illness”, and substitute the words “mental disorder”.

To omit from line 27 on page 54 the words “medical officer”, and substitute the word “clinician”.

Clause 48: To omit this clause, and substitute the following clause:

48. Right to treatment—Every patient is entitled to medical treatment and other health care appropriate to his or her condition.

Clause 49A: To insert in line 12 on page 56, after the word “visual”, the words “or audio”.

Clause 51A: To omit from line 13 on page 57 the words “medical officer”, and substitute the word “clinician”.

To omit from line 18 on page 57 the words “medical officer”, and substitute the word “clinician”.

Clause 52: To omit from lines 25 and 26 on page 57 the words “medical officer”, and substitute the word “clinician”.

Clause 55: To omit from line 11 on page 58, and also from line 13 on that page, the word “Psychiatric”, and substitute in each case the words “Area Mental Health”.

Clause 56: To omit from line 27 on page 58 the words “medical officer”, and substitute the word “clinician”.

To omit from line 34 on page 58 the words “medical officer”, and substitute the word “clinician”.

To omit from line 41 on page 58 the words “medical officer”, and substitute the word “clinician”.

To omit from line 5 on page 59 the words “medical officer”, and substitute the word “clinician”.

To omit from line 11 on page 59 the words “medical officer”, and substitute the word “clinician”.

To omit from line 20 on page 59 the words “medical officer”, and substitute the word “clinician”.

To insert, after line 26 on page 59, the following subparagraph:

(iii) The patient’s primary caregiver:

To omit from line 37 on page 59 the words “medical officer”, and substitute the word “clinician”.

Clause 57: To omit from line 28 on page 60 the words "medical officer", and substitute the word "clinician".

To omit from lines 41 and 42 on page 60 the words "medical officer", and substitute the word "clinician".

To omit from line 10 on page 61 the words "medical officer", and substitute the word "clinician".

To omit from line 16 on page 61 the words "medical officer", and substitute the word "clinician".

To omit from line 20 on page 61 the word "officer", and substitute the word "clinician".

To omit from lines 35 and 36 on page 61 the words "medical officer", and substitute the word "clinician".

To omit from line 42 on page 61 the words "medical officer", and substitute the word "clinician".

To omit from line 4 on page 62 the words "medical officer", and substitute the word "clinician".

To omit from line 9 on page 62 the word "officer", and substitute the word "clinician".

Clause 57A: To omit from line 22 on page 62 the words "medical officer", and substitute the word "clinician".

To omit from lines 30 and 31 on page 62 the words "medical officer", and substitute the word "clinician".

To omit from line 5 on page 63 the words "medical officer", and substitute the word "clinician".

To omit from line 10 on page 63 the words "medical officer", and substitute the word "clinician".

To omit from line 17 on page 63 the words "medical officer", and substitute the word "clinician".

To omit from line 22 on page 63 the words "medical officer", and substitute the word "clinician".

Clause 58 (9): To insert, after line 20 on page 65, the following paragraph:

(f) The patient's primary caregiver:

Clause 65: To omit from line 15 on page 71 the words "psychiatric illness", and substitute the words "mental disorder".

Clause 66: To omit from line 19 on page 71 the words "psychiatric illness", and substitute the words "mental disorder".

Clause 68: To omit from line 32 on page 71 the words "medical officer", and substitute the word "clinician".

Clause 69: To omit from lines 21 and 22 on page 73 the words "or any Deputy Director-General of Health".

Clause 74: To omit from line 26 on page 76 the words "medical officers", and substitute the word "clinicians".

Clause 75A: To omit from lines 11 and 12 on page 77 the words "section 92 or (as the case may require) section 148 of the Area Health Boards Act 1983", and substitute the words "section 91 of the Area Health Boards Act 1983 or (as the case may require) section 148 of the Hospitals Act 1957".

Clause 83: To omit from line 19 on page 80 the words "and Advisory Committees".

Clause 86: To insert in line 3 on page 82, after the word "of", the word "public".

Clause 88A (2) (a): To omit from line 10 on page 85 the words "Continue to".

Clause 93: To omit from lines 28 and 29 on page 87 the words “a responsible medical officer or”.

Clause 98: To omit from line 28 on page 89 the words “responsible medical officer,”.

To omit from line 30 on page 89 the expression “section 5”, and substitute the expression “section 6”.

To omit from line 38 on page 89 the words “responsible medical officer,”.

To omit from line 3 on page 90 the expression “section 5”, and substitute the expression “section 6”.

Clause 99: To insert in line 24 on page 90, after the words “responsible clinician may”, the words “, with the approval of the Director of Area Mental Health Services,”.

To insert in line 36 on page 90, after the words “responsible clinician may”, the words “, with the approval of the Director of Area Mental Health Services,”.

To add, after line 8 on page 91, the following paragraph:

- (h) Any psychiatrist from whom the patient has sought a second opinion about the patient’s condition.

Clause 102: To insert in line 23 on page 92, after the word “of”, the word “public”.

Clause 102A: To insert, after the word “hospital” wherever it appears, the words “or service”.

Clause 104: To insert in line 7 on page 95, after the word “hospital”, the words “or service”.

To insert in line 8 on page 95, after the words “shall keep”, the words “, in respect of patients subject to this Act,”.

To insert in line 9 on page 95, after the words “discharges of”, the word “such”.

Clause 109: To insert in line 2 on page 98, after the word “of”, the word “public”.

To insert in line 12 on page 98, after the word “of”, the word “public”.

Clause 112A: To insert, after clause 112, the following clause:

112A. Saving—(1) Notwithstanding the repeals effected by section 112 (1) of this Act, any licence granted under section 9 of the Mental Health Act 1969 and in force at the commencement of this Act shall, subject to subsections (2) to (6) of this section, continue to have effect and sections 9 to 13 of, and the First Schedule to, the Mental Health Act 1969 shall continue to have effect both in relation to any such licence and in relation to any institution that, by virtue of any such licence, is a licensed institution within the meaning of the Mental Health Act 1969.

(2) Subject to subsections (3) to (6) of this section, any licence to which subsection (1) of this section applies shall, unless the licence is sooner revoked under section 10 of the Mental Health Act 1969, cease to have effect with the close of the period beginning with the 1st day of November 1992 and ending with the close of the 31st day of October 1997.

(3) Where the Minister is satisfied that the licensee of an institution that is being operated under a licence to which subsection (1) of this section applies is taking steps to enable that institution to be registered as a private hospital under the Hospitals Act 1957, the Minister may, by notice in the *Gazette*,

extend, on not more than 3 occasions in relation to any such licence, the period specified in subsection (2) of this section.

(4) On the first occasion, the period may be extended until the close of the 31st day of October 1998.

(5) On the second occasion, the period may be extended until the close of the 31st day of October 1999.

(6) On the third occasion, the period may be extended until the close of the 31st day of October 2000.

First Schedule: To omit subclause (4) of clause 2 (which appears on page 104), and substitute the following subclause:

“(4) The Tribunal may exercise, at any stage of the hearing,—

“(a) The discretion conferred on it, by subclause (2) of this clause, to excuse a patient; or

“(b) The discretion conferred on it, by subclause (3) of this clause, to exclude a patient.

To omit from subclause (5) of clause 4 (which appears on page 105) the words “the Consolidated Account from”, and substitute the word “public”.

To omit from subclause (5) of clause 6 (which appears on page 106) the words “the Consolidated Account from”, and substitute the word “public”.

Fourth Schedule: To omit from page 110 the words “medical officer” wherever they appear, and substitute in each case the word “clinician”.

To omit from page 111 the words “medical officer”, and substitute the word “clinician”.

To omit from page 114 the words “medical officer” wherever they appear, and substitute in each case the word “clinician”.

To omit from page 115 the words “medical officer”, and substitute the word “clinician”.

To omit from page 116 the words “medical officer”, and substitute the word “clinician”.

EXPLANATORY NOTE

Clause 1: The proposed amendment changes the date of commencement of the Bill from 1 July 1990 to 1 November 1992.

Clause 2: The first of the proposed amendments omits the definition of the term “clinician”, and substitutes a new definition:

In the Bill, as reported from the Social Services Committee, the term is defined as follows:

“Clinician” means a person who holds a professional qualification relevant to some aspect of the treatment or care of patients:

The new definition, as now proposed to be substituted, is as follows:

“Clinician” means a person who holds a professional qualification relevant to the assessment, treatment, and care of patients with mental disorder:

The second and third of the proposed amendments to *clause 2* alter the definition of the term “mental disorder”. The definition of that term which appears in lines 17 to 28 on page 5 and which presently applies only to persons who have attained the age of 17 years is to become of general application. The other definition, which appears in lines 29 to 40 on page 5 and which applies to persons who have not attained the age of 17 years, is to be omitted.

The fourth of the proposed amendments to *clause 2* inserts, into that clause, a definition of the term “primary caregiver”.

The fifth of the proposed amendments to *clause 2* omits from that clause the definition of the term “responsible clinician”, and substitutes a new definition of that term.

Under the definition inserted into the Bill by the Social Services Committee the term “responsible clinician”, in relation to a patient, meant the clinician

responsible for the evaluation and management of the patient's programme of care.

Under the proposed new definition the term "responsible clinician", in relation to a patient, will mean the clinician in charge of the treatment of that patient.

The new definition is based on the definition of the term "responsible medical officer" (which definition is to be omitted from the Bill).

The sixth of the proposed amendments to *clause 2* omits from that clause the definition of the term "responsible medical officer".

The seventh of the proposed amendments to *clause 2* inserts, into that clause, a definition of the term "service".

The eighth of the proposed amendments to *clause 2* recognises that the Protection of Personal and Property Rights Act was passed in 1988.

Clause 4c: The proposed amendment omits this clause, and substitutes a new clause.

This clause (as reported from the Social Services Committee) requires the assignment in respect of each patient of—

- (a) A responsible medical officer; and
- (b) A responsible clinician.

That clause recognised that the responsible medical officer could also be assigned as the responsible clinician.

The proposed new clause requires the assignment of only a responsible clinician, who shall be—

- (a) A psychiatrist approved by the Director of Area Mental Health Services; or
- (b) Some other registered health professional who, in the opinion of the Director of Area Mental Health Services, has undergone training in, and is competent in the assessment, treatment, and care, of persons with mental disorders.

Clause 6: The proposed amendments alter the requirements in relation to the notice of assessment examination as it may not always be possible to ensure that the proposed patient understands the notice. The new *paragraph (ca)* of *subclause (2)* provides for an explanation to be given in the presence of a member of the proposed patient's family, or a caregiver in relation to the proposed patient or other person concerned with the welfare of the proposed patient.

Clause 7: The proposed amendment requires the certificate of preliminary assessment under that clause to be given not only to the persons already listed in lines 10 to 12 on page 13 of the Bill but also to the patient's primary caregiver.

Clause 8: The proposed amendments to this clause, and related amendments to *clauses 2, 9, 11, 12, 13, 14, 15, 27, 27A, 29, 30, 31c, 33, 41, 42, 43, 43A, 51A, 52, 56, 57, 57A, 68, 74, 93, 98,* and the *Fourth Schedule*, confer on "the responsible clinician", in respect of a patient, the powers that were to have been exercised by the responsible medical officer in respect of that patient.

Clause 9: The proposed amendment requires the certificate of further assessment under that clause to be given not only to the persons listed in lines 6 to 14 on page 17 of the Bill but also to the patient's primary caregiver.

Clause 12: The proposed amendment requires the certificate of final assessment under that clause to be given not only to the persons listed in lines 3 to 5 on page 23 of the Bill but also to the patient's primary caregiver.

Clause 16: The proposed amendment makes it clear that, where the Court is hearing an application for a compulsory treatment order in respect of a patient,—

- (a) The only discretion of the Court to excuse the patient from the hearing is that conferred by *clause 16 (2)*; and
- (b) The only discretion of the Court to exclude the patient from the hearing is that conferred by *clause 16 (3)*.

Clause 20: The proposed amendment is consequential on the abolition of the Consolidated Account by the Public Finance Act 1989.

Clause 31B: Under this clause anyone who is concerned in any way with the care of any person and who believes that that person may be suffering from mental disorder may request the assistance of a duly authorised officer.

On any such request that duly authorised officer is required to take certain steps specified in the clause. The proposed amendment alters the mandatory nature of the requirement in relation to those steps. The duly authorised officer will now have a discretion as to the steps taken.

New clauses 31F and 31G: The proposed new clauses provide for the giving to the Director of Mental Health of notice of the admission, discharge, and transfer of special patients and restricted patients.

Clause 33: Paragraph (f) of subclause (3) (as reported from the Social Services Committee) provides that the Court may not, under *clause 33*, make a community treatment order in respect of a person detained in a penal institution or a certified institution within the meaning of the Alcoholism and Drug Addiction Act 1966 unless the Court is satisfied that the person can be treated adequately in the institution in which he or she was detained.

The Bill (as introduced in 1987) contained an absolute prohibition on the making of such orders in respect of such persons. The proposed amendment reinstates that absolute prohibition.

Clause 38AA: Under *clause 38* of the Bill, as reported from the Social Services Committee, the Minister of Health may grant leave of absence to certain special patients. Only the Minister of Health has power to cancel leave so granted.

The proposed new *clause 38AA* provides that the Director of Area Mental Health Services may direct that any such patient who is on leave shall be returned to hospital if the Director of Area Mental Health Services is satisfied that the return of the patient to hospital is necessary, in the interest of the safety of that patient or the public. The period of detention under the direction may not exceed 72 hours.

Clause 39B: Under this clause, as reported from the Social Services Committee, every application under *clause 39A* for an order declaring a patient to be a restricted patient is required to be heard and determined by the High Court. The proposed amendment requires instead that applications for such orders be heard and determined by District Courts.

Clauses 42, 43, and 43A: These clauses use the term "psychiatric illness". That term is not defined in the Bill. The proposed amendments omit the references to the term "psychiatric illness", and substitute references to the term "mental disorder".

Clause 48: This clause, in the Bill as introduced, provides as follows:

48. Right to treatment—Every patient is entitled to psychiatric and other medical care and treatment appropriate to his or her condition.

It is now proposed to omit this clause, and substitute the following clause:

48. Right to treatment—Every patient is entitled to medical treatment and other health care appropriate to his or her condition.

Clause 49A: Under *subclause (1)* of this clause, as reported from the Social Services Committee, every patient is entitled to be informed where it is intended to make or use a videotape or other visual recording of any interview with, or any other part of the treatment of, the patient.

The proposed amendment extends the application of *clause 49A (1)* so that it will apply, in addition, to audio recordings.

Clause 55: The two references in this clause to the Director of Psychiatric Services should now be references to the Director of Area Mental Health Services. The proposed amendments make appropriate changes to the two references.

Clause 56: The proposed amendment requires that a copy of the certificate of clinical review issued under that clause be sent not only to the persons listed in lines 23 to 35 on page 59 of the Bill but also to the patient's primary caregiver.

Clauses 65 and 66: These clauses use the term "psychiatric illness". That term is not defined in the Bill. The proposed amendments omit the references to the term "psychiatric illness", and substitute references to the term "mental disorder".

Clause 69: The proposed amendment omits a reference to the Deputy Director-General of Health. It is not the present practice to make appointments to that office.

Clause 75A: This clause contains incorrect references to certain sections of the Area Health Boards Act 1983. The proposed amendment omits those references, and substitutes references to section 91 of the Area Health Boards Act 1983 and section 148 of the Hospitals Act 1957.

Clause 83: The proposed amendment (which omits from the heading to the clause a reference to Advisory Committees) is consequential on the omission from *clauses 83 to 86* of references to Advisory Committees.

Clause 86: The proposed amendment brings the clause into line with the terminology used in the Public Finance Act 1989.

Clause 88 (2) (a): The proposed amendment omits the words "Continue to" and thus removes an implication that voluntary patients are detained.

Clause 98: The second and fourth of the proposed amendments correct a cross reference.

Clause 99: The first two of the proposed amendments provide that the responsible clinician may open and withhold a patient's mail only with the approval of the Director of Area Mental Health Services.

The third of the proposed amendments provides that no letter or other postal article addressed to a patient may be withheld from a patient if it is sent by or on behalf of any psychiatrist from whom the patient has sought a second opinion about the patient's condition.

Clause 102: The proposed amendment brings the clause into line with the terminology used in the Public Finance Act 1989.

Clause 102A: The proposed amendment extends the application of the clause so that it will cover not only the transfer of patients between hospitals but also the transfer of patients between services.

Clause 104: The first of the proposed amendments extends the application of *subclause (1)* so that not only the person in charge of every hospital but also the person in charge of every service will be required to keep the records specified in that subclause.

The second and third of the amendments ensure that the records are required to be kept only in respect of patients subject to the Act.

Clause 109: The proposed amendments bring the clause into line with the terminology used in the Public Finance Act 1989.

Clause 112A: The proposed new clause is a savings provision in respect of institutions licensed under section 9 of the Mental Health Act 1969. The licences, unless sooner revoked, are continued in force until the close of 31 October 1997. Provision is made for further extensions in 1-year steps until the close of 31 October 2000. The only licence presently in force under section 9 of the Mental Health Act 1969 is that in respect of Ashburn Hall.

First Schedule: The first of the proposed amendments makes it clear that, where a Review Tribunal is hearing an application for a review of a patient's condition,—

- (a) The only discretion of the Review Tribunal to excuse the patient from the hearing is that conferred by *clause 2 (2)* of the *First Schedule*; and
- (b) The only discretion of the Review Tribunal to exclude the patient from the hearing is that conferred by *clause 2 (3)* of the *First Schedule*.

The second and third of the proposed amendments are consequential on the abolition of the Consolidated Account by the Public Finance Act 1989.