

Mental Health Law

SECOND EDITION

Brenda Hoggett

Sweet & Maxwell

MENTAL HEALTH LAW

SECOND EDITION

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LONDON
SWEET & MAXWELL
1984

First Edition	1976
Second Edition	1984

Published by
Sweet & Maxwell Limited of
11, New Fetter Lane, London
Computerset by Promenade Graphics Limited, Cheltenham
Printed in Great Britain by
Robert Hartnoll Limited, Bodmin, Cornwall

British Library Cataloguing in Publication Data

Hoggett, Brenda M.
Mental health law.—2nd ed.
1. Great Britain. Mental Health Act 1983
2. Mental health laws—England
I. Title
344.204'44 KD3412.A3/

ISBN 0-421-30220-8

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1984

MENTAL HEALTH LAW

AUSTRALIA AND NEW ZEALAND

The Law Book Company Ltd.
Sydney : Melbourne : Perth

CANADA AND U.S.A.
The Carswell Company Ltd.
Agincourt, Ontario

INDIA
N. M. Tripathi Private Ltd.
Bombay
and
Eastern Law House Private Ltd.
Calcutta and Delhi
M.P.P. House
Bangalore

ISRAEL
Steimatzky's Agency Ltd.
Jerusalem : Tel Aviv : Haifa

MALAYSIA : SINGAPORE : BRUNEI
Malayan Law Journal (Pte.) Ltd.
Singapore

PAKISTAN
Pakistan Law House
Karachi

Preface

A very great deal has happened to mental health law since the first edition of this work was written in 1975. The law itself has become much more complex, but it has also become still more essential for all the professionals involved, medical, social work and legal, to have a thorough understanding of what the law says and what it means. Social workers must be trained for their new responsibilities. Doctors, nurses and others in the clinical professions must be quite clear about their powers in the treatment and control of hospital and other patients. Lawyers must know the context in which they represent patients before mental health review tribunals and elsewhere. In catering for all of these, the text has inevitably lengthened and the casualty has been the Appendix on the Scottish law which appeared in the first edition. I am sorry about this and hope to remedy it elsewhere.

It has been impossible to acknowledge the source of every item mentioned in the text, although I have tried to indicate the major contributors. The bibliography gives a more complete list. But I am particularly grateful to the Department of Health and Social Security and to the Welsh Office, who have supplied me with the figures to update the tables contained in the 1981 White Paper on the Reform of Mental Health Legislation and with a great deal of other helpful information. I should also like to acknowledge with thanks the help of the Home Office, the many Mental Health Review Tribunals which I have visited, and a great many colleagues and students in social work, psychiatry and the law. Amongst these, I owe a particular debt to Rosemary Morrison, Martin Wasik, and above all to David Kenny, who undertook the onerous task of reading the typescript for me. Sweet and Maxwell have been as helpful and understanding as ever. None of these, of course, is to be blamed for any errors or deficiencies, or for the views expressed, which are entirely my own.

I have tried to state the law in most respects as it was at September 30, 1983, when the Mental Health Act 1983 came into force. But in relation to mental nursing homes, residential homes, and certain other aspects of community care, account has been taken of the law as it will be once the Health and Social Services and Social Security Adjudications Act 1983 is implemented, although unfortunately the relevant regulations are not yet avail-

able. I have also dealt with the position of approved social workers and with the courts' powers to remand to hospital and make interim hospital orders, although these are not yet in force. In this way, I hope that the book is as comprehensive as possible.

This is a law book written by a lawyer. I have not attempted to deal with the purely medical aspects of mental disorder and many non-medical readers may find it useful to consult a simple source on psychiatry. I have found particularly helpful the World Health Organisation's *Glossary and Guide to Mental Disorders*, the *Concise Encyclopedia of Psychiatry*, by Leigh, Pare and Marks, and the *Notes on Psychiatry*, by Ingram, Timbury and Mowbray. Once again, it is not their fault if I have got it wrong.

Brenda Hoggett

December, 1983

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