

MENTAL HEALTH ACT

CHAPTER 40:62

**Act
29 of 1987**

Current Authorised Pages

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MENTAL HEALTH ACT

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CHAPTER 40:62

MENTAL HEALTH ACT

AN ACT to provide for the care and treatment of persons who are mentally ill and for related matters. 29 of 1987.

[31st December 1987]

Commencement.

PART I

PRELIMINARY

1. This Act may be cited as the –

Short title.

MENTAL HEALTH ACT.

2. (1) In this Act –

Interpretation.

“Board” means the Mental Health Review Board constituted by section 13(1);

“consultant psychiatrist” in relation to a psychiatric hospital, means the member of the medical staff responsible for the medical care and treatment of the patients of that hospital;

“discharge” means unconditional release from any hospital;

“general hospital” means any institution, other than a psychiatric hospital, that provides medical or surgical treatment for patients;

“guardian” means –

(a) a person who has attained the age of 18 years and has custody of a person under that age; or

(b) a person who is acting as guardian *ad litem* in relation to a person suffering from a mental disorder;

“medical practitioner” means a person registered as such under the Medical Act;

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“mental disorder” means mental illness, or mental deficiency however caused or manifested;

“mental health officer” means a person designated as such under section 3(1);

“Minister” means the Minister responsible for Health;

“psychiatric hospital” means any institution or other place designated by the Minister to be a hospital for the care and treatment of persons suffering from a mental disorder and every such designation shall be published in the *Gazette*;

“patient”, except in the definition “general hospital” contained in this section and in Part III, means a person suffering or appearing to be suffering from a mental disorder;

“psychopathic disorder” means a persistent disorder or disability of mind that results in abnormally aggressive or seriously irresponsible conduct on the part of a patient and requires, or is susceptible to, medical treatment;

“relative” means husband, wife, son, daughter, parent, brother or sister of the whole blood, uncle or aunt of the whole blood, nephew or niece of the whole blood, grand-parent or grand-child.

Mental health officers may be designated.

3. (1) The Minister may designate as mental health officers for the purpose of this Act any of the following persons:

- (a) psychiatric social workers;
- (b) registered mental nurses with at least six months supervised experience in social work;
- (c) registered mental nurses with at least one year’s experience as such;
- (d) family nurse and health visitors, practitioners or district nurses who have successfully completed an in-service training course in psychiatric nursing approved by the Minister for that purpose;
- (e) other nurses with equivalent training and experience as health visitors or family nurse practitioners and with at least six months supervised experience in social work and in psychiatric nursing.

(2) A mental health officer shall exercise such functions and duties as may be prescribed.

PART III

ADMISSIONS TO PSYCHIATRIC HOSPITAL

4. The consultant psychiatrist of a psychiatric hospital may –

- (a) examine, admit to and detain in that hospital and therein medically treat any patient;

Powers of consultant psychiatrist.

- (b) transfer any patient under section 9; and
- (c) subject to section 8 (2), discharge any patient who is no longer in need of medical treatment.

5. A person may be admitted to a psychiatric hospital as –

Categories of patients.

- (a) a voluntary patient;
- (b) a medically recommended patient; or
- (c) a hospital order patient.

6. (1) The consultant psychiatrist of a psychiatric hospital may admit to that hospital any person who –

Voluntary patients.

- (a) request admission or on whose behalf admission is requested; and
- (b) in the opinion of that psychiatrist, is or appears to be suffering from a mental disorder.

(2) Where a person who is in need of medical treatment for a mental disorder is under the age of eighteen years, a request under subsection (1) may be made on his behalf by his parent or guardian.

(3) A person admitted to a psychiatric hospital under this section is a voluntary patient.

(4) A request for admission as a voluntary patient must be made in writing in such form as the Minister approves.

(5) A person who is admitted to a psychiatric hospital as a voluntary patient is –

- (a) on his written application; or
- (b) if admitted at the request of a parent or guardian made under subsection (2), on the written application of that parent or guardian,

entitled to be discharged.

(6) Notwithstanding subsection (5), the consultant psychiatrist of a psychiatric hospital may issue a certificate to the effect that a patient admitted under this section is in need of further medical treatment and may re-admit the patient as a medically recommended patient provided that another medical certificate to that effect signed by a medical practitioner who is not employed at that hospital is obtained within

Medically recommended patients.

7. (1) The consultant psychiatrist of a psychiatric hospital may admit a patient to that hospital on receipt of –

- (a) an application signed by a parent or guardian of that patient; and
- (b) a medical certificate in a form approved by the Minister signed by another medical practitioner who is not employed at that hospital, and who bears no affinity to the patient.

(2) A person admitted to a psychiatric hospital under subsection (1) is a medically recommended patient.

(3) A medical certificate issued under subsection (1) must bear the date on which the patient was examined and contain –

- (a) the history of the patient;
- (b) a statement to the effect that the medical practitioner has personally examined the patient;
- (c) the facts on which the medical practitioner has based his opinion separately from the facts communicated to him by others;
- (d) a statement to the effect that after examination, the patient was found to be suffering from a mental disorder;
- (e) a statement to the effect that the patient is recommended for admission in the interest of his own health or safety or with a view to the protection of other persons.

(4) A medical certificate must be completed within twenty-four hours of the examination.

(5) A person recommended for admission to a psychiatric hospital under this section shall not be admitted thereto under this section if more than seven days have elapsed since he was last examined.

(6) The case of a medically recommended patient must be reviewed in every six months.

(7) Notwithstanding subsections (5) and (6), a medical certificate issued under this section is valid for a period of twelve months and the discharge of a patient before the expiration of the period does not

operate to prevent that patient from being re-admitted to the psychiatric hospital during the period without the issue of a fresh medical certificate.

(8) The consultant psychiatrist of a psychiatric hospital may, by certificate in writing, change the status of a medically recommended patient to that of a voluntary patient.

8. (1) Where, in the opinion of a Court, an accused person charged before it is, or appears to be suffering from a mental disorder, the Court may order that person to be admitted to a psychiatric hospital for a period not exceeding three weeks. Hospital order patients.

(2) A person admitted to a psychiatric hospital under subsection (1) may be discharged only after the approval of the Court that ordered his admission and the Court may specify conditions as to his discharge.

(3) A person who, on a highway or public place by reason of his general appearance or by his conduct or conversation, causes a member of the Police Service who has been so notified by a mental health officer or consultant psychiatrist, reasonably to believe that the person is suffering from a mental disorder and ought to be taken into custody in the interest of his own health or safety or with a view to the protection of others may be taken into custody without a warrant by a member of the Police Service not below the rank of sergeant or by a member of the Police Service of lower rank acting under the authority of a sergeant or officer of higher rank and conveyed directly to a psychiatric hospital.

(4) Where a member of the Police Service is informed by a mental health officer or consultant psychiatrist that a person suspected of being mentally ill is in any building or on any premises, whether private or not, that member of the Police Service may, if necessary, obtain a warrant and enter such building or premises and take that person into custody.

(5) A member of the Police Service who takes a person into custody under subsection (3) or (4) may elect not to prefer a charge against him; but may instead convey him directly to a psychiatric hospital and shall in any case, do so within twenty-four hours from the time of taking him into custody and as soon as possible thereafter –

- (a) inform his relatives of the events leading up to and including his admission to the hospital and the reasons for taking that person into custody; and

(b) make arrangements for the relatives to communicate with him.

(6) A person conveyed to a psychiatric hospital under subsection (5) may be examined and admitted to that hospital for a period not exceeding seventy-two hours unless on examination he is found to be in need of further treatment in which case the consultant psychiatrist may authorise the change of his status to that of a medically recommended patient and section 7 applies, except that the requirements of section 7(1)(a) do not apply.

Ch. 12:70.

(7) A person admitted to a psychiatric hospital under this section or removed thereto under section 17 of the Prisons Act is a hospital order patient.

Transfer of patients.

9. (1) The consultant psychiatrist of a psychiatric hospital may transfer a patient other than a hospital order patient to any other hospital.

(2) Subject to subsection (3), where a patient admitted to a psychiatric hospital is in need of special medical treatment that is not available at that hospital, the consultant psychiatrist of that hospital may authorise the transfer of that patient to a general hospital.

(3) Where a person charged before a Court as referred to in section 8(1) is transferred under subsection (2), arrangements approved by the Court shall be made for his security.

Examination and treatment of patients not requiring admission.

10. A consultant psychiatrist or a medical practitioner may examine and treat any person who is, or appears to be suffering from a mental disorder in any hospital, health centre, health clinic or any other institution in the State, if in his opinion it is not necessary to admit such person to a psychiatric hospital for treatment.

Special leave for patients.

11. (1) Subject to subsection (2), the consultant psychiatrist of a psychiatric hospital may permit any patient, other than a hospital order patient or a patient detained under section 15, to be absent from the hospital for a period of such time as he thinks fit.

(2) A patient may not be granted leave of absence under subsection (1) unless a relative or such other person as the consultant psychiatrist approves, undertakes in writing --

(a) to be responsible for the patient's welfare;

(b) to allow the patient to be seen at any time by a person authorised by the consultant psychiatrist and

(c) to report immediately to the consultant psychiatrist any visible signs of deterioration in the patient's condition.

(3) Where a report has been made under subsection (2)(c) that the condition of a patient to whom that subsection relates has deteriorated, the consultant psychiatrist shall demand the return of that patient to the hospital and may invoke the provisions of subsections (3) and (4) of section 8 for the purpose, if necessary.

(4) A patient who has been allowed leave under this section is, until he is discharged, subject to the same control as if he were still in hospital.

12. A patient admitted to a psychiatric hospital under section 7 or 8, who leaves that hospital without the permission required by this Act may within twenty-eight days at any time or place be apprehended without a warrant by a person authorised by the consultant psychiatrist or by a member of the Police Service, and returned to the hospital.

Patient leaving hospital without permission.

13. (1) There is constituted a Board to be known as the Mental Health Review Board, for the purpose of dealing with applications by and in respect of patients under this section.

Application to Mental Health Review Board.

(2) The Schedule has effect with respect to the constitution of the Board and otherwise in relation thereto.

Schedule.

(3) A person acting on behalf of a patient detained under sections 6, 7 and 8 who believes that such detention is unreasonable may apply in writing to the Board for its review of the matter.

(4) The Board shall, within twenty-eight days of the receipt of the application –

(a) have the patient brought before it to be questioned;

(b) ascertain the reasons for the detention of the patient and examine the grounds in support of the application;

(c) if it considers it necessary, cause the patient to be further medically examined; and

(d) hear such further evidence as may be relevant to the application.

(5) The Board may –

(a) dismiss the application; or

(b) order the immediate discharge of the patient.

and make such order as to costs as it considers just.

(6) A person who is aggrieved by a decision of the Board may appeal against the decision to the High Court.

(7) An appeal under subsection (6) must be brought by way of originating summons within fourteen days of the decision of the Board.

Immunity from actions.

14. No liability attaches to any person who, in good faith –

(a) procures the admission to or discharge from a psychiatric hospital of any patient; or

(b) carries out the instructions of any person authorised by this Act to procure the admission of any patient to a psychiatric hospital.

Detention during the President's pleasure.

15. (1) Notwithstanding section 8(1), where a person on trial before the High Court –

(a) is found unfit to plead; or

(b) is found guilty but is suffering from insanity,

that Court shall order him to be detained in a psychiatric hospital until the President's pleasure is known and thereupon the President may give an order for the safe custody of that person during the detention.

(2) The President –

(a) may by warrant absolutely or conditionally discharge any person detained under subsection (1);

(b) must before the discharge of that person order that his case be reviewed by the consultant psychiatrist and a report made to him.

PART III

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

Definition.

16. In this Part references to a patient are references to a person alleged to be incapable by reason of mental disorder, of managing and administering his property and affairs.

Jurisdiction of Court.

17. Where the High Court, after considering medical evidence, is satisfied that a person is incapable by reason of mental disorder of

managing and administering his property and affairs, the Court may exercise the powers conferred on it by this Part.

18. (1) The Court may, with respect to the property and affairs of a patient, do or secure the doing of all such things as appear to be necessary or expedient – General functions
of Court.

- (a) for the maintenance or other benefit –
 - (i) of the patient; or
 - (ii) of members of the patient's family;
- (b) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from a mental disorder; or
- (c) otherwise for administering the patient's affairs.

(2) Subject to subsection (3), in the exercise of powers conferred on it by subsection (1) the Court shall have regard to the requirements of the patients.

(3) The rules of the law that, immediately before the commencement of this Act, restricted the enforcement by a creditor of rights against the property under the control of the Court, of a person found to be of unsound mind continue to apply to property under the control of the Court by virtue of this Part.

(4) Subject to subsections (2) and (3), the Court shall, in administering the affairs of a patient, have regard to –

- (a) the interests of creditors; and
- (b) the desirability of making provisions for obligations of the patient,

notwithstanding that they may not be legally enforceable.

19. (1) Without prejudice to section 18 the Court may, at the instance of the Attorney General make such orders and give such directions as it thinks fit for the purposes of that section and, in particular, may, for those purposes, make orders and give directions for – Special powers of
Court.

- (a) the control (with or without the transfer or vesting of property or the payment into or lodgement in Court of money or securities) and management of any property of the patient;

- (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 persons or for any purposes mentioned in section 18 (1)(a)(ii) or (b);
- (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;
- (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 including any order, direction or authority to present a petition in the name or on behalf of the patient for –
 - (i) divorce or nullity of marriage;
 - (ii) presumption of death or dissolution of marriage; or
 - (iii) judicial separation;
- (i) the reimbursement out of the property of the patient with or without interest, of money applied by a person–
 - (i) in payment of the debts of the patient (whether or not legally enforceable);
 - (ii) for the maintenance or other benefit of the patient or members of his family; or
 - (iii) in making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from a mental disorder; or
- (j) the exercise of any power (including a power to consent) vested in the patient, whether beneficially or as guardian or trustee, or otherwise.

(2) If, under subsection (1), provision is made for

- (a) the settlement of any property of a patient; or
- (b) the exercise of a power vested in a patient of –
 - (i) appointing trustees; or
 - (ii) retiring from a trust,

the Court may also make as respects the property settled or trust property, as the case may be, such consequential vesting or other order as the case requires.

(3) The power of the Court under subsection (1) to provide for the settlement of the property of a patient is not exercisable at any time when the patient is a minor.

(4) Where under this section a settlement has been made of any property of a patient and the Court is satisfied, at any time before the death of the patient, that –

- (a) any material was not disclosed when the settlement was made; or
- (b) there has been substantial change in circumstances,

the Court may make an order varying the settlement as it thinks fit and give any consequential directions.

20. Where it is represented to the Court and the Court is of the view that –

- (a) a person may be incapable, by reason of a mental disorder, of managing and administering his property and affairs; and
- (b) it is necessary to make immediate provision for any of the matters referred to in section 19,

Powers of Court in cases of emergency.

then, pending the determination of the question whether that person is so incapable, the Court may exercise in relation to the property and affairs of that person any of the powers conferred on it in relation to the property and affairs of a patient by this Part so far as is requisite for enabling that provision to be made.

21. (1) The Court may make an order appointing as receiver for a patient a person specified in the order or the holder for the time being of an office so specified.

Power to appoint receiver.

(2) A receiver appointed under subsection (1) shall do all such

things in relation to the property and affairs of the patients as the Court, in the exercise of the powers conferred on it by sections 18 and 19, orders or directs him to do and may do any such thing in relation thereto as the Court, in the exercise of those powers, authorises him to do.

Vesting of stock
in curator.

22. (1) Where the Court is satisfied –

- (a) that under the law in force in a place outside Dominica 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
- (b) that having regard to the nature of the appointment and to the circumstances of the case it is expedient that the Court should exercise its powers under this section,

the Court may direct any stock standing in the name of that 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 Court thinks fit for dealing with accrued dividends thereof.

(2) For the purposes of this section “stock” includes shares and any fund, annuity or security transferable in the books kept by any body corporate or unincorporate, or by an instrument of transfer either alone or accompanied by other formalities and “dividend” is to be construed accordingly.

Preservation of
interests in
patient’s
property.

23. (1) Where –

- (a) property of a person had been disposed of under this Part; and
- (b) under his will or intestacy or by any gift perfected or nomination taking effect on his death any other person would have taken an interest in such property but for the disposal,

that other person is entitled to the like interest, if and so far as the circumstances allow, in any property belonging to the estate of the deceased that represents the property disposed of; and if the property disposed of were real property, any property representing it, so long as it remains part of the estate, is to be treated as if it were real property.

(2) The Court, in ordering or directing under this Part any disposal of property that 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, 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) For the purposes of subsections (1) and (2), references to the disposal of property are references to the sale, exchange, charging or other dealing (otherwise than by will) 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 are to be construed accordingly and as including the result of successive disposals.

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

(5) Subject to subsection (6), where the Court has ordered or directed the expenditure of money for the carrying out of permanent improvements on or otherwise for the permanent benefit of any property of a patient, it may order that the whole or any part of the money expended or to be expended be charged 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 the person as trustee for the patient; and

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

(6) A charge under subsection (5) does not confer any right of sale or foreclosure during the lifetime of the patient.

24. (1) For the purposes 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 Court under this Part, the Court may appoint –

Medical and legal visitors.

- (a) a medical practitioner who appears to it to have special knowledge and experience of cases of mental disorder to be a medical visitor; and
 - (b) a barrister or solicitor of not less than seven years standing to be a legal visitor.
- (2) A visitor appointed under subsection (1) shall –
- (a) visit a patient in accordance with the directions of the Court; and
 - (b) make such report to the Court about his visit as the Court may require.
- (3) A visitor may, while making a visit, interview a patient in private.
- (4) A medical visitor making a visit under this section may carry out in private a medical examination of a patient and may require the production of and examine any medical records relating to the patient.
- (5) The Registrar or a Deputy Registrar of the High Court may on the directions of the Court visit any patient and report his findings to the Court and subsection (3) has effect for the purposes of this subsection.
- (6) A report made by a visitor under this section and information contained in such a report shall not be disclosed except to the Court and any person authorised by the Court to receive such disclosure.
- (7) Any person who discloses any report or information in contravention of subsection (6) is liable on summary conviction to a fine of five hundred dollars and imprisonment for three months.

Appeals.

25. An appeal lies to the Court of Appeal from any decision of the High Court subject to and in accordance with rules of court relating to civil appeals from the High Court to the Court of Appeal.

Rules.

26. (1) The Chief Justice may make rules of court providing generally for the conduct of proceedings before the High Court with respect to persons suffering or alleged to be suffering from a mental disorder.

(2) Without prejudice to subsection (1), rules of court may make provision –

- (a) as to the carrying out of preliminary or incidental

- (b) as to the persons by whom and the manner in which proceedings may be instituted and carried on;
- (c) as to the persons who are entitled to be notified of, to attend or to take part in proceedings;
- (d) as to the evidence that may be authorised or required to be given in proceedings (whether on oath or otherwise and whether orally or in writing) in which it is to be given;
- (e) as to the administration of oaths and taking of affidavits for the purposes of proceedings;
- (f) as to the enforcement of orders made and directions given in proceedings;
- (g) for authorising or requiring the attendance and examination of persons suffering from a mental disorder, the furnishing of information and the production of documents;
- (h) 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 in relation to the property and affairs of the patient;
- (i) as to the scale of costs, fees and percentages payable in relation to proceedings and as to the manner in which and the funds out of which such costs, fees and percentages are to be paid; for charging any percentages 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 for the remission of fees and percentages;
- (j) for the making of orders for the payment of costs to or by persons attending or taking part in proceedings;
- (k) as to the giving of security by a receiver and the enforcement and discharge of the security;
- (l) for the rendering of accounts by receivers or persons.

not being receivers, ordered or directed under this Part to carry out any transactions.

(3) A charge upon the estate of a person created by virtue of subsection (2)(i) does not cause any interest of that person in any property to fail or determine or to be prevented from recommencing.

Accounts.

27. A receiver appointed under section 21 shall during his receivership and after his discharge render accounts in accordance with the rules of court made under section 26.

PART IV MISCELLANEOUS

Forgery, false statements, etc.

28. (1) A person is guilty of an offence who, with intent to deceive, forges –

- (a) an application, medical certificate or report under Part II; or
- (b) any other document required or authorised to be made for any of the purposes of this Act.

(2) A person is guilty of an offence who –

- (a) uses or allows any person to use; or
- (b) makes or has in his possession,

any document mentioned in subsection (1)(a) or (b) that he knows to have been forged or any document so closely resembling any such documents as to be calculated to deceive.

(3) A person is guilty of an offence who –

- (a) wilfully makes a false entry or statement in any application, certificate, report, record or other document required or authorised to be made for any of the purposes of this Act; or
- (b) with intent to deceive, makes use of any such entry or statement knowing it to be false.

(4) Any person guilty of an offence under this section is liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.

Ill-treating of patients.

29. Any person in charge of a psychiatric hospital or any other person employed in such hospital who –

- (a) wilfully neglects;
- (b) wilfully ill-treats; or
- (c) except in self-defence or in the interest of a patient, strikes,

any patient of that hospital is guilty of an offence and liable on summary conviction to a fine of two thousand five hundred dollars and imprisonment for twelve months.

30. A person in charge of or employed in a psychiatric hospital who has sexual intercourse with a person who is – Sexual offences against patients.

- (a) a patient in that hospital;
- (b) on the premises of that hospital for the purpose of receiving treatment as an out-patient,

is liable on conviction on indictment to imprisonment for five years.

31. (1) A person who has sexual intercourse with a person who is suffering from a mental disorder who is in his custody or under his care and protection by virtue of sections 7, 8 or 9 is liable on conviction on indictment to imprisonment for two years. Sexual offences against persons in custody.

(2) It is a defence for a person who is charged under subsection (1) to prove that he did not know or had no reason to believe or to suspect that the person was suffering from a mental disorder.

32. Any person who wilfully permits or assists or connives at the escape or attempted escape of a patient while being conveyed to or while detained in a psychiatric hospital under the authority of this Act is liable on summary conviction to a fine of one thousand five hundred dollars and imprisonment for twelve months. Permitting escape of patients.

33. The Minister may make Regulations – Regulations.

- (a) providing for the care, treatment, maintenance, conduct, discipline, custody, transfer, leave, release, discharge and ~~expulsion of patients during their detention in or after~~ discharge from a psychiatric hospital;
- (b) prescribing the fees to be paid for certificates under this Act and the instances in which those fees are to be paid to the Government;

- (c) providing for the handling of mail to and from patients detained in a psychiatric hospital;
- (d) providing for any matter relating to the management and conduct of psychiatric hospitals;
- (e) prescribing anything that is by this Act authorised or required to be prescribed;
- (f) annexing to the contravention of any such regulation a punishment by way of a fine of two thousand five hundred dollars and imprisonment for twelve months.

Section 13.

SCHEDULE

MENTAL HEALTH REVIEW BOARD

1. The Board shall consist of –
 - (a) two persons chosen from the legal profession (hereinafter referred to as the “legal members”) appointed by the Minister;
 - (b) two persons chosen from the medical profession (hereinafter referred to as the “medical members”) appointed by the Minister; and
 - (c) three persons appointed by the Minister and having such knowledge of social services or other qualifications or experience as the Minister considers suitable.

2. The members of the Board shall hold and vacate office under the terms of the instruments under which they are appointed, but may resign office by notice in writing addressed to the Minister.

3. A member of the Board who ceases to hold office is eligible for re-appointment.

4. The Minister shall appoint a Chairman and Deputy Chairman of the Board from among members of the Board.

5. The members who are to constitute the Board for the purpose of dealing with any application made to it under section 13 shall be selected by the Chairman or if for any reason he is unable to act, by the Deputy Chairman, and of the members so selected –

- (a) one must be selected from among the legal members;
- (b) one must be selected from among the medical members; and
- (c) one must be selected from among the members who are neither legal nor medical members.

6. (1) The Chairman or in the case of the absence or inability of the Chairman to act, the Deputy Chairman shall preside at all meetings of the Board.

(2) Notwithstanding subparagraph (1), where the Chairman or Deputy Chairman is not included among the persons referred to in paragraph 5 the persons so included shall appoint one of their number to preside at their meeting.

7. (1) Subject to subparagraph (2), the Chairman or, in his absence, the Deputy Chairman and any three other members of the Board shall form a quorum.

(2) For the purposes of paragraph 5 any two members shall form a quorum.

8. Subject to this Schedule, the Board may regulate its own procedure.

9. The Minister may –

- (a) authorise payment to the members of the Board of such remuneration and allowances as he determines;
 - (b) defray the expenses of the Board; and
 - (c) provide for the Board such offices and accommodation as the Board requires.
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SUBSIDIARY LEGISLATION

MENTAL HEALTH REGULATIONS**ARRANGEMENT OF REGULATIONS**

REGULATION

1. Short title.
 2. Interpretation.
 3. Notification of rights.
 4. Search for and possession of valuables, etc.
 5. Physical examination and record thereof.
 6. Routine examinations.
 7. Rights of voluntary patient/change of status.
 8. Application of electro-convulsive therapy.
 9. Application by nurse-in-charge of medication.
 10. Seclusion as method of treatment.
 11. When patient leaves hospital without permission.
 12. Access by visitors.
 13. Power to withhold or return mail.
 14. Mail to attorney-at-law or the Mental Health Review Board.
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SUBSIDIARY LEGISLATION

MENTAL HEALTH REGULATIONS

6/1988.

made under section 33

[4th February 1988]

Commencement.

1. These Regulations may be cited as the –

Short title.

MENTAL HEALTH REGULATIONS.

2. In these Regulations –

Interpretation.

“approved form” means such form as the consultant psychiatrist approves;

“Psychiatric Hospital Administrator” means the person who is responsible for the general administration of the psychiatric hospital;

“relative” means a parent or adult child.

3. The Psychiatric Hospital Administrator shall cause every patient on admission, if he is competent, to be told of his rights under the Act and the nature of his detention.

Notification of rights.

4. (1) A medically recommended or hospital order patient shall surrender his valuables for safe-keeping by the Psychiatric Hospital Administrator.

Search for and possession of valuables, etc.

(2) Valuables surrendered shall be recorded and witnessed and returned to the patient on discharge.

(3) The Government is not liable for unsurrendered valuables lost, damaged or destroyed.

(4) A patient may be searched for possession of narcotic drugs which shall be destroyed, and for weapons which shall be delivered to the Commissioner of Police for safe-keeping.

5. (1) Save in cases referred to in subregulation (4) a medical officer shall physically examine each patient as soon as possible after admission to a psychiatric hospital and in every case within twenty-four hours of admission.

Physical examination and record thereof.

(2) A person whose mental state in the opinion of the medical officer precludes examination within the period specified in subregulation (1) shall be examined as soon as practicable and the reasons for delay recorded in his case notes.

(3) The results of a physical examination shall be entered in the case notes of the patient and shall be signed by the examining medical officer.

(4) A patient for admission to the psychiatric hospital on referral from the general hospital or from the District Medical Officer shall prior to his admission be subject to a medical examination at the general hospital or by the District Medical Officer and a record of the examination shall accompany the patient. A further physical examination may be performed if in the opinion of the medical officer of the psychiatric hospital it is required.

Routine examinations.

6. Patients in the psychiatric hospital shall be medically examined at yearly or such lesser intervals as the consultant psychiatrist determines. Specialist medical opinion may be obtained.

Rights of voluntary patient/ change of status.

7. A voluntary patient may refuse any treatment offered unless the treatment is necessary in an emergency to prevent deterioration of the patient's condition or to prevent injury to the patient or to others in which case his status shall be changed to that of a medically recommended patient in accordance with section 7 of the Act.

Application of electro-convulsive therapy.

8. Where in the opinion of the medical officer electro-convulsive therapy is necessary for the treatment of a patient's condition consent for such treatment shall be obtained from the patient in an approved form if he is competent or from the patient's guardian or relative if he is not competent and if there is no guardian or relative a second written opinion of a medical officer who is not employed in the psychiatric hospital certifying that the treatment is necessary for alleviating or preventing any deterioration in the patient's condition shall be obtained.

Application by nurse-in-charge of medication.

9. (1) If the medical officer is not available following the admission of a medically recommended or hospital order patient, the patient may be given by the nurse-in-charge without prescription such medication as the consultant psychiatrist has approved in writing, or on the telephone, for treatment of such condition.

(2) Medicine prescribed on the telephone shall be recorded by the nurse-in-charge in the case notes of the patient and witnessed.

10. (1) A patient may be placed in seclusion as part of the method of his treatment if in the opinion of the medical officer or on the unavailability of the medical officer, the nurse-in-charge –

Seclusion as
method of
treatment.

(a) his behaviour is so disturbed that he may be a danger to himself or to others;

(b) the situation is one of emergency and such a measure is required.

(2) Where a patient is put in seclusion the consultant psychiatrist shall cause a record to be kept of the length of time he is secluded.

(3) Observation of the patient who has been placed in seclusion shall be carried out every thirty minutes by a person authorised by the consultant psychiatrist.

(4) In this regulation “seclusion” means enforced isolation in a single room for any period of time between the hours of 7.30 a.m. and 11.00 p.m.

11. (1) Where a patient leaves the hospital without permission, as soon as his absence is discovered, the following persons shall be informed and a search instituted for the patient :

When patient
leaves hospital
without
permission.

(a) in the case of a voluntary patient, the relatives or guardian of the patient;

(b) in the case of a medically recommended or hospital order patient, the relatives or guardian of the patient and the police.

(2) The consultant psychiatrist may order the discharge of a patient referred to in subregulation (1) who is a voluntary patient.

(3) Where the patient is a medically recommended or hospital order patient, he must, when found, be returned to the hospital.

12. The medical officer may refuse any visitor access to a patient if in his opinion the patient’s condition is likely to deteriorate as a result of the visit.

Access by
visitors.

Power to
withhold or
return mail.

13. (1) Subject to regulation 14, mail addressed to a patient shall be withheld and returned to the sender where the medical officer is of the opinion that the receipt of mail –

- (a) would cause unnecessary distress to the patient and a deterioration in his condition; or
- (b) would interfere with the treatment being given to the patient.

(2) Mail sent by a patient may be withheld where it appears to the medical officer –

- (a) to be defamatory of persons who are not officers or employees of the psychiatric hospital;
- (b) that it is unreasonably offensive to the addressee; or
- (c) that it would prejudice the best interests of the patient.

Mail to attorney-
at-law or the
Mental Health
Review Board.

14. Mail addressed to a patient's attorney-at-law or to the Mental Health Review Board shall not be withheld.
