

## CHAPTER 46.

## MENTAL TREATMENT.

AN ORDINANCE TO MAKE PROVISION FOR THE CARE OF  
PERSONS OF UNSOUND MIND.

20 of 1949.  
6 of 1950.  
10 of 1950.

[31st December, 1949.]

1. This Ordinance may be cited as the Mental Treatment Ordinance. Short title.

2. In this Ordinance unless the context otherwise requires: Interpretation.  
“Person of unsound mind” means an idiot or a person who is suffering from mental derangement.

3. (1) Any justice, upon information on oath of any informant to the effect that the informant has good cause to suspect and believe and does suspect and believe that a particular person is of unsound mind and a proper subject to be placed under care and treatment, may see and question the person so suspected and may together with another justice hold an inquiry in private as to the state of mind of such person. For the purposes of such inquiry the justices shall have the powers of a Court and may, after one of them shall have seen the person suspected of being of unsound mind, proceed with such inquiry in the absence of such person and without proof of service of any summons upon him. Inquiry as to the state of a person's mind.

(2) If it shall appear to any justice by information on oath that any person suspected of being of unsound mind is at large, or is dangerous to himself or others, or is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, such justice may by order under his hand require any constable to apprehend such person and bring him before himself and another justice or two other justices for the purpose of inquiry and examination.

[*Note.* This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

(3) The justices may adjourn the inquiry for a period not exceeding eight days for the purpose of medical examination or the production of evidence as to the state of mind of the person so suspected, and may, if the person alleged to be of unsound mind has been apprehended as aforesaid or under the provisions of section 6, make such order for the detention and safe custody of such person during the said adjournment as they may deem fit.

Medical certificates.

10 of 1950.

4. (1) The justices making an inquiry under section 3 hereof shall direct that the person suspected of being of unsound mind be examined by two registered medical practitioners, and thereupon such practitioners shall, if they consider that the facts warrant it, sign a certificate that in their opinion the suspected person is of unsound mind, specifying in full detail the facts upon which they found their opinion.

(2) A certificate may contain information as to the previous medical history of the person so suspected but no certificate which purports to be founded wholly on facts communicated by others shall have any effect.

Adjudication of insanity and admission to a place for proper care and custody.

5. Where it appears to the justices upon inquiry that any person is of unsound mind and a proper subject to be placed under care and treatment, and the Senior Medical Officer or other medical practitioner having certified that he is of unsound mind, they may adjudge such person to be of unsound mind and a proper person to be placed under care and treatment, and may make an order (hereinafter referred to as a "reception order") for the care and treatment of such person in an institution or place approved by the Governor in Council as a fit and proper place for the care and treatment of persons of unsound mind (hereinafter referred to as an "approved place"):

Provided that the justices shall not make a reception order unless one, at least, of them shall have seen the person suspected of being of unsound mind.

Removal of person of unsound mind in urgent cases.

6. If a police constable is satisfied that it is necessary for the public safety, or for the welfare of a person alleged to be of unsound mind in respect of whom an inquiry ought to be made under this Ordinance, that such person should be placed under care and control before such inquiry can be held, the

constable may remove that person to an approved place, and shall within twenty-four hours of such removal lay information on oath under section 3 hereof. The Senior Medical Officer or the person in charge of the approved place shall receive and detain such person therein but no person shall be so detained for more than three days.

7. (1) A reception order shall remain in force for one year from its date, and thereafter from year to year if at the end of each year a special report of the Senior Medical Officer as to the mental and bodily condition of the patient with a certificate under his hand that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the magistrate not more than one month nor less than seven days before the end of such year.

Duration of reception orders.

(2) A magistrate or any two justices may require the Senior Medical Officer to give such further information concerning the patient as he or they may require, or order that the patient be brought before him or them for examination and, if necessary, discharge him from the approved place.

(3) Any person who detains a person after he has knowledge that an order for his reception has expired shall be guilty of a misdemeanour.

(4) A certificate under the hand of a magistrate that an order for reception has been continued to the date therein mentioned shall be sufficient evidence of the fact.

8. The Senior Medical Officer shall be responsible for the management and control of an approved place, the patients and the staff thereof.

Control of an approved place.

9. If it shall appear to any justice that the father, mother, husband, wife or children of any person confined in an approved place or elsewhere as hereinafter provided for is or are possessed of sufficient means to support or contribute to the support of such person, he may summon such relatives to appear before a Court, and the Court shall, if satisfied that such relative or relatives are able to maintain or assist in the maintenance of the person so confined, order that such relative or relatives pay such sum of money weekly or otherwise as it may consider reasonable having regard to the circumstances of the parties:

Maintenance of person of unsound mind.

Provided that a Court may vary an order upon proof that the means of such relative or relatives have changed since the date of the original order or any subsequent order varying it.

Maintenance may be charged to estate of person of unsound mind.

**10.** The Judge of the Supreme Court may make such inquiries as he may deem proper as to the estate of a person of unsound mind, and may order all or any part thereof to be sold or dealt with as he may deem most expedient for the purpose of raising or securing money for the payment of or provision for the future maintenance of such person, or for any purpose which the Judge may consider is for the benefit and interest of the person of unsound mind.

Discharge of patient if fit.

**11.** Whenever it shall appear to the Senior Medical Officer that a patient is fit to be discharged from an approved place he shall so certify to a magistrate or two justices who may order that such patient shall be discharged accordingly.

Discharge of person on undertaking of relative, etc., for proper care.

**12.** Whenever the Senior Medical Officer shall certify that a patient (except any criminal lunatic) is fit to be discharged to the care and custody of relatives or friends any justice may order accordingly, subject to such relatives or friends entering into a bond, with or without sureties, in such amount and conditions as the justice may deem fit that such patient shall be properly taken care of and shall be prevented from doing injury to himself or others.

Release of patient on trial.

**13.** (1) When it shall appear to the Senior Medical Officer that any person confined under this Ordinance (other than a criminal lunatic) is not dangerous, he may at his discretion permit such person to be absent from an approved place upon trial for such period as he may think proper and subject to any undertaking or the observance of any conditions as to residence, occupation, surveillance and sureties (if any) as the Senior Medical Officer may deem fit.

(2) In the case of any breach of an undertaking or condition imposed under this section, or if a person does not return to the approved place at the expiration of the period for which he was released, such person may at any time up to fourteen days after the expiration of such period be retaken by any police officer and conveyed back to an approved place.

14. Any patient who shall leave an approved place otherwise than upon discharge, removal, or release on trial may without a fresh order and certificates be retaken at any time within fourteen days after his leaving the approved place by a police officer or any person authorised in writing by the Senior Medical Officer and conveyed back to, and received in, the approved place.

Escaped patient may be retaken within 14 days.

15. (1) If it shall appear to a magistrate on information on oath that there is reason to believe that any person of sound mind (other than a criminal lunatic) is confined in an approved place against his will, he shall order that such person shall be brought before him or two justices for the examination on oath of such confined person and of any medical or other witnesses who may be called by the Senior Medical Officer or informant as to the state of mind of such person, and if it shall appear to such magistrate or justices that such person is of sound mind and detained against his will, he or they shall make an order that such person shall be discharged from the approved place and the Senior Medical Officer shall discharge such person accordingly.

Magistrate may order person to be brought before him for examination.

(2) An examination under this section shall be conducted in private.

16. (1) The magistrate or two justices may, upon being satisfied that adequate arrangements have been made for the safety and care of a person of unsound mind while on board ship and for his reception at the port of landing to secure his proper disposal into the care of friends or a mental hospital in the United Kingdom, or being an alien, in his country of origin, order that such person be removed from the Colony in a ship bound for a port in the United Kingdom or said country of origin as the case may be:

Removal of a person of unsound mind from the Colony.

Provided that the father, mother, husband, wife or children of the person so removed shall pay such part of the cost of the passage and maintenance in a mental home of such person as a justice shall after hearing the parties decide.

(2) When a person of unsound mind is removed from the Colony a transcript of the proceedings in respect of such person shall be transmitted by the Governor to His Majesty's Secretary of State for the Colonies.

(3) This section shall not apply to the removal of criminal lunatics which is governed by the Colonial Prisoners Removal Act, 1884, and any Act amending or replacing that Act.

Visitors.

17. (1) The Governor shall appoint two or more persons to be visitors of approved places and may remove any of them and appoint others in their places.

(2) Two of the said visitors shall at least once in every month inspect every part of an approved place in which a person of unsound mind is confined and see and examine every such person therein and the orders for their admission, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the condition and management of the approved place and the patients therein and shall sign the book upon every such visit.

(3) The said visitors shall in December in each year submit a joint report to the Governor on the state and condition of any approved place in which persons of unsound mind are confined and as to the management and conduct thereof and the care of patients therein.

10 of 1950.

(4) In addition to the annual report the visitors, or any of them, shall at any time make such reports upon any matter connected with an approved place as they shall see fit, and as may be specially directed by the Governor.

Protection  
of persons  
putting the  
Ordinance  
in force.

18. (1) No person who has presented an application or laid an information for a reception order, or signed or carried out, or done any act with a view to signing or carrying out, an order purporting to be a reception order, or any report, application or certificate, or any document purporting to be a report, application or certificate, or has done anything in pursuance of this Ordinance shall be liable to any civil or criminal proceedings unless he has acted in bad faith or without reasonable care.

(2) No proceedings shall be brought against any person in any Court in respect of any matter referred to in subsection (1) hereof without the leave of the Supreme Court, and leave shall not be granted unless the Supreme Court is satisfied there is substantial ground for the contention that the person against whom it is sought to bring proceedings has acted in bad faith or without reasonable care.

(3) Notice of any application under subsection (2) hereof shall be given to the person against whom it is sought to bring proceedings, and such person shall be entitled to be heard against the application.

(4) Proceedings against any person for anything done under this Ordinance shall be commenced within twelve months of the alleged act in respect of which the proceedings are brought, or from the date of release of the party who has been detained as a person of unsound mind, as the case may be, and for the purpose hereof the date of service of notice of an application under subsection (3) hereof shall be deemed to be date of commencement provided that proceedings are commenced within four weeks of leave to proceed having been granted.

(5) If proceedings are not commenced within the time stated in subsection (4) hereof judgment shall be given for the defendant.

19. Any person not being a registered medical practitioner who knowingly and wilfully signs a certificate prescribed under this Ordinance shall commit a misdemeanour and on conviction thereof shall be liable to imprisonment for a term not exceeding twelve months.

Person other than registered medical practitioner signing certificate.

20. Any registered medical practitioner who knowingly and wilfully in any certificate prescribed under this Ordinance falsely certifies anything shall commit a misdemeanour and on conviction thereof shall be liable to imprisonment for a term not exceeding two years.

False medical certificate.

21. Any person who wilfully assists the escape of any person of unsound mind while being conveyed to or confined in an approved place or who hides such person who has escaped from an approved place shall commit an offence and shall be liable to a fine not exceeding £20 or to imprisonment for a term not exceeding six months.

Assisting escape of person of unsound mind.

22. Any person employed at an approved place who through wilful neglect or connivance permits any person confined in an approved place to leave otherwise than on discharge, removal or release on trial as provided by this Ordinance shall commit an offence and shall be liable to a fine not exceeding £20 or to imprisonment for a term not exceeding six months.

Permitting escape of person of unsound mind.

Abuse of  
female of un-  
sound mind.

**23.** Any person employed or having duties at an approved place who carnally knows or attempts to have carnal knowledge of any female under care and treatment at such approved place shall commit a misdemeanour and on conviction on indictment shall be liable to imprisonment for a term not exceeding two years.

Ill-treating  
patients in  
an approved  
place.

**24.** Any person employed at an approved place who strikes, ill-treats or neglects any patient therein shall commit an offence and be liable to a fine not exceeding £20 or to imprisonment for a term not exceeding six months.

Ill-treating  
patients  
released on  
trial and  
obstructing  
officer.

**25.** Any person who strikes or ill-treats any person released on trial from an approved place knowing him to be of unsound mind, or obstructs an officer of an approved place in the execution of his duty in connection with a person of unsound mind, shall commit an offence and be liable to a fine not exceeding £20 or a term of imprisonment not exceeding six months.

Selling, etc.,  
articles to  
persons in  
approved  
place.

**26.** Any person who, without the consent of the Senior Medical Officer gives, sells or barter any article or commodity to any patient in an approved place shall commit an offence and be liable to a penalty not exceeding £20 or to imprisonment for a term not exceeding six months.

Trespassing  
on premises  
of an ap-  
proved place.

**27.** (1) Any person who trespasses upon any premises belonging or appertaining to an approved place, or who enters the same without being duly authorised so to do, shall commit an offence and be liable to a fine not exceeding £10 or to imprisonment for a term not exceeding three months.

(2) Any person committing an offence under this section may be apprehended without warrant by any servant at the approved place or by any constable.

Rules.

**28.** The Governor in Council may make rules for the better administration of this Ordinance and the control and management of approved places.

Appeals.

**29.** Any party to proceedings under sections 9 and 16 (1) hereof shall have a right of appeal to the Supreme Court against any order made by a justice.



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30. Nothing in this Ordinance shall apply to criminal lunatics or affect the jurisdiction of the Supreme Court in matters relating to lunacy. Non-application to criminal lunatics.